

Town of Waterford

Draft Updated Zoning Law

June 18, 2021

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Chapter 161

Zoning

**[HISTORY: Adopted by the Town Board of the Town of Waterford 6-7-1966.
Amendments noted where applicable.]**

GENERAL REFERENCES

Planning Board — See Ch. **26**.

Dumps and dumping — See Ch. **77**.

Mobile homes and parks — See Ch. **104**.

Sewers — See Ch. **126**.

Stormwater management — See Ch. **142**.

Streets and sidewalks — See Ch. **143**.

Subdivision regulations — See Ch. **A166**.

Article I

General Provisions

§ 161-1 **Title.**

This chapter shall be known and may be cited as the "Zoning Law of the Town of Waterford, Saratoga County, New York."

§ 161-2 **Purpose.**

[Amended 2-2-2004 by L.L. No. 1-2004]

- A. The purpose of this chapter is to exercise the town's right to protect its citizens by controlling the use of land to broadly protect public health, safety, and general welfare and to carry out locally established goals and objectives in accordance with the Town of Waterford Comprehensive Plan.
- B. Further purposes are to:
- (1) conserve and protect property and property values;
 - (2) secure the most appropriate use of land;
 - (3) lessen or avoid congestion in the public streets and highways;
 - (4) facilitate adequate but economical provision of public improvements;

- (5) ensure maintenance of high-quality facilities and park and recreational opportunities for residents;
- (6) protect open space, scenic vistas, and other important natural resources in Waterford;
- (7) preserve, promote, and enhance Waterford's waterfront, historic and cultural assets; and
- (8) provide for a mix of housing types and densities to meet the housing needs of individuals, families, and seniors while maintaining the continuity of established residential neighborhoods.

§ 161-3 Definitions and word usage.

A. In the construction of this chapter, the rules and definitions contained in this section shall be observed and applied.

B. Word usage.

- (1) Words used in the present tense shall include the future; and words used in the singular number shall include the plural number, and the plural the singular.
- (2) The word "shall" is mandatory; the word "may" is permissive.
- (3) The word "lot" shall include the words "plot," "piece" and "parcel"; the word "building" includes all other structures of every kind, regardless of similarity to buildings: and the phrase "used for" shall include the phrases "arranged for," "designed for," "intended for," "maintained for" and "occupied for."
- (4) The word "person" includes a corporation as well as an individual.

C. Definitions. As used in this chapter, the following terms shall have the meanings indicated:

ACCESSORY USE

A use or building customarily incidental and subordinate to the principal use or building and located on the same lot with such principal use or building. Accessory uses include but are not limited to private garages, private swimming pools or ponds, tool houses or storage sheds, greenhouses, livestock shelters, barns and silos, gazebos, and residential use of propane and natural gas tanks.

ACCESSORY STRUCTURE

A building or feature for use, occupancy, or ornamentation, whether installed on, above, or below the surface of land or water detached from a principal building located on the same

lot and customarily incidental and subordinate to the principal building or use.

AGRICULTURE

See "customary agricultural uses."

AGRICULTURAL PROCESSING FACILITY

A facility where animals are processed into meat foods, or a facility where plants and plant products are processed into food products. An agricultural processing facility does not include a slaughterhouse.

ALTERATION

As applied to a building or structure, a change or rearrangement in the structural parts or in the exit facilities or in enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

AREA, BUILDING

The total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings, exclusive of uncovered porches, terraces, and steps.

AREA, LOT

The total area within the property lines.

ATHLETIC FIELD

An outdoor recreational facility, open to the general public designed for the conduct of one or more sporting activities.

AUTOMOBILE WRECKING YARD

The use of any area or portion of any lot or plot, whether inside or outside a building, for the temporary storage of automobiles awaiting dismantling or the dismantled parts of automobiles or for the dismantling, cutting, demolition or burning of automobiles.

AUTOMOTIVE REPAIR

The repair, rebuilding or reconditioning of motor vehicles or parts thereof, including collision service, painting and steam cleaning of vehicles.

AUTOMOBILE SERVICE STATION

A commercial use operated for gain and which is used for the storage, repair, rental, greasing, servicing, adjusting or equipping of automobiles or other motor vehicles.

BANK

Any structure which houses money exchangers, trust companies, private bankers, savings

banks, safe deposit companies, savings and loan associations, credit unions and investment companies or other financial depository activities as defined in the NYS Banking Law.

BASEMENT

The floor of a building which is partly or entirely below ground level.

BED AND BREAKFAST

A type of commercial short-term rental use in an owner occupied, one-family dwelling, used for providing overnight accommodations to lodgers and a morning meal for compensation to not more than ten lodgers and containing no more than five bedrooms for such lodgers.

BUILDING

Any structure which is permanently affixed to the land, or has one or more floors, walls and a roof for the shelter, support or enclosure of persons, animals, chattels, equipment, materials, or property of any kind. Accessory structures to a building such as, but not limited to decks and pools shall also be considered a part of such building.

BUILDING, HEIGHT OF

The vertical distance measured from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs and to the mean height between eaves and ridge for gable, hip, and gambrel roofs.

BUIDING INSPECTOR

The individual designated by the Town Board to enforce the provisions of the building code, Town of Waterford Code, and this Zoning Law. The Building Inspector shall also be considered the zoning officer.

BUILDING LINES

The building front line shall mean the line of that face of the building nearest the front line of the lot. This face includes sun parlors and covered porches, whether enclosed or not enclosed, but does not include steps. Side and rear building lines shall be determined in a comparative manner.

BUILDING, PRINCIPAL

A building in which is conducted the main or principal use of the lot on which said building is situated.

CHANGE OF USE

The change of occupancy of land, buildings, structures, or other improvements on land, from either residential, commercial or industrial to one of the other uses. A change in use

shall also be when there is a change in the nature, substance or intensity of the same use. Change of occupancy or change of ownership shall not be construed as a change of use.

CHURCH

See Place of Worship.

CELLAR

A story partly underground and having more than 1/2 of its clear height below the average level of the adjoining ground. A cellar shall not be considered in determining the permissible number of stories.

CLUB or LODGE

A building or portion thereof or premises owned and/or operated by a corporation, association, person or persons for a social, educational, or recreational activity, but not primarily for profit or to render a service which is customarily carried on as a business.

COMMERCIAL REFORESTATION AREA

A reforestation area is an area where the planting or replanting of forest plant materials takes place to create or recreate the forest habitat.

COMMERCIAL WOODLOT

The commercial operation of timber cutting for firewood or other wood products. It shall also mean land used for the production of woodland products intended for sale, including but not limited to logs, lumber, posts, and firewood. A commercial woodlot shall not include land used to produce Christmas trees.

COMMUNITY CHARACTER

The image of a community or area as defined by its natural and built environment, including open space, housing, architectural style, historical features, infrastructure, type and quality of public facilities and services, cultural and recreational opportunities, and economy.

COMPLETE APPLICATION

An application for development that has been reviewed under SEQRA Part 617 and has received either a negative declaration by the reviewing board or a draft environmental impact statement has been accepted by such board.

COMPREHENSIVE PLAN

A document that details an underlying purpose to control land uses for the benefit of the whole community based upon consideration of the community's problems and applying a general policy to obtain a uniform result and adopted pursuant to NYS Town Law 272-a.

CONDOMINIUM

A building, or group of buildings, in which dwelling units, office, or floor area are owned individually and the structure and common areas are owned by all the owners on a proportional, undivided basis.

CONSERVATION SUBDIVISION

Pursuant to Chapter 166 of the Town of Waterford Code, a residential subdivision where the number of dwelling units that would be yielded by a conventional subdivision plan are allowed to be placed on the parcel to be subdivided in a flexible manner, where lot sizes, road frontages, and other bulk dimensions are allowed to be relaxed and where a majority of the remaining land is left in its natural open space condition in perpetuity.

CONVENIENCE STORE

[Added 2-27-1997 by L.L. No. 2-1997]:

- (1) A retail commercial establishment, not exceeding 1500 square feet of gross floor area, supplying groceries and other daily household necessities to the general public.
- (2) An establishment where food, tobacco, drugs, periodicals, or similar items of household convenience are kept for retail sale to the general public.
- (3) Any retail establishment with a gross leasable area of 2000 square feet or less that is primarily engaged in retail dealings in goods required by the inhabitants of a residential district to meet their day-to-day needs but shall not include a store catering primarily to the requirements of a commercial district.
- (4) A retail store in which articles for sale are restricted to a limited range of primarily food items such as milk, bread, soft drinks, ice cream, canned and bottled goods, snacks and candy and meat, and to complement such items may include the limited sale of magazines, books and records, housewares, toiletries, stationery, and tobacco products.
- (5) An establishment where food stuffs, tobacco, patent medicines, periodicals and other similar items of household convenience are kept for retail sale to the general public.

COVERAGE

That percentage of the plot or lot area covered by the building area.

CUSTOMARY AGRICULTURAL USES

The land and on-farm buildings, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation and marketing of crops, aqua culture, and livestock and livestock products as a commercial enterprise, including

commercial horse boarding operations, on-farm markets and sales, timber processing, compost, mulch or other biomass crops and the management and processing farm woodland as further defined in NYS AML 25-aa, Section 305. Notwithstanding the above, a 'customary agricultural use' shall not include the cultivation of a garden for personal, non-commercial purposes, or the raising of domesticated animals intended to be kept as household pets or companion animals.

DAY CARE

Daytime care for the needs of people who cannot be fully independent, such as children or elderly people including such structures and surrounding areas utilized for such purpose.

DAY CARE CENTER – A day care facility in a residence and for greater than 6 people.

FAMILY DAY CARE – A day care facility in a residence and for six people or fewer.

COMMERCIAL DAY CARE CENTER – A day care facility not in a residence and for greater than 6 people.

DRIVE-IN SERVICE ESTABLISHMENT

Any place or premises used for the sale, dispensing, or serving of any retail commodity, banking, food, refreshments, or beverages where business is transacted between the establishment and a person in a parked or stationary automotive vehicle, except outdoor theaters.

DUMP

A lot or land part thereof used primarily for the disposal, by abandonment, dumping, burial, burning or any other means and for whatever purpose, of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof or waste material of any kind. One cubic yard or more of refuse not removed for four weeks during the period from April 1 to November 1 may be decreed to be "refuse dump."

DWELLING

A building designed or used as the living quarters for one or more families. The terms "dwelling," "one-family dwelling," "multi-family dwelling," "two-family dwelling" or "dwelling group" shall not be deemed to include automobile courts, rooming houses, or tourist homes.

- (1) **DWELLING, ONE-FAMILY:** A detached building containing one dwelling unit only.
- (2) **DWELLING, TWO-FAMILY:** A detached building designed to contain no more

than two dwelling units.

- (3) **DWELLING, MULTI-FAMILY:** A building or portion thereof containing three or more dwelling units.

DWELLING UNIT

A room or group of rooms providing complete housekeeping facilities for one-family and occupied by a single-family unit plus not more than three lodgers.

EASEMENT

A legal agreement related to an interest in real property which limits or restricts the development, management or use of such real property in perpetuity for the specific purposes including, but not limited to preserving or maintaining the scenic, agricultural, open space, historic, recreational, archeological, architectural or natural condition, character, significance or amenities of the property.

ELECTRIC CHARGING FACILITY

A system for the charging of an electric vehicle. Components typically include a charging kiosk and a transformer.

ESCROW

A deed, bond, cash, or other security delivered by an applicant to the Town of Waterford to cover costs of review or inspection related to a project undergoing review by the Town Board, Planning Board or Zoning Board of Appeals.

FAMILY

One or more persons who live together as a single housekeeping unit and maintain a common household, as distinguished from a group occupying a boardinghouse, lodging house, club, fraternity or hotel. A "family" may consist of a single person or of two or more persons, whether or not related by blood, marriage or adoption. A "family" may also include domestic servants and gratuitous guests.

FARM

See "customary agricultural uses."

FARM ACCESSORY BUILDING

A structure designed and constructed to house farm implements, hay, grain, poultry, livestock, or other horticultural products. This structure shall not be a place of human habitation but used in the raising, growing or storage of agricultural products by a farmer engaged in a farming operation and used directly and solely for agricultural purposes.

FARMERS MARKET

The seasonal or year-round retail selling of farm products in a permanent structure or a predesignated area, where the vendors are individuals who have raised the agricultural product or have taken the same on consignment for sale.

FENCE

A hedge, structure or partition erected for the purpose of enclosing a piece of land or to divide a piece of land into distinct portions or to separate two contiguous estates.

FORMULA BUSINESS

A commercial building used by a business having more than five different business locations that is designed to be virtually identical to buildings used by that business in other communities or places because of standardized architecture.

FUELING STATION

Any area of land, including structures thereon, that is used or designed to be used for the supply of gasoline, diesel, natural gas, propane, or oil or other fuel for the propulsion of motor vehicles or power equipment and which may include electric vehicle charging stations (EV). A fueling station may be associated with other uses such as a motor vehicle service business, car wash, convenience store, and similar businesses.

FUNERAL HOME

A building used for the preparation of the deceased for burial and the display of the deceased and associated rituals.

GAME PRESERVE

An area of land where wild animals are either allowed to live safely or to be hunted in a controlled way for sport. When used for hunting, a game preserve is a wholly enclosed area where the release and shooting is allowed. A shooting preserve may or may not have a minimum acreage requirement, depending upon its classification as either a Class A or Class B shooting preserve as per DEC regulations. All lands used for a shooting preserve must be one contiguous block with the boundaries posted with appropriate signs in accordance with State Environmental Conservation Law section § 11-2111 (Posting; service of notice), § 11-1903 (Shooting Preserves), and NYCRR 6 NYCRR Part 153 Preserve License, 6 NYCRR Part 154 Domestic Waterfowl, and 6 NYCRR Part 175 Special License and Permits: Definitions and Uniform Procedures.

GARAGE, PRIVATE

An enclosed space for the storage of one or more motor vehicles, provided that no business, occupation or service is conducted for profit therein nor space therein for more than one car is leased to a nonresident of the premises.

GREENSPACE

That portion of land on a site plan, development plan, Comprehensive Plan or Official Map whose purpose is intended for open space preservation, recreation (active or passive), landscaping or parkland. Unless otherwise required by the Planning or Town Boards, said lands shall be undisturbed and seeded and planted with appropriate materials or left in their natural state. They will not contain buildings or structures other than fences and shall not be used for display or storage of any merchandise or used for the parking of vehicles.

[Added 10-7-1997 by L.L. No. 9-1997]

GOLF COURSE

A tract of land consisting of a landscaped area for playing golf or other recreational and social facilities, whether generally open to the public or having a private or semi-private membership including all associated structures.

GREENHOUSE

A structure where plants are cultivated and sold for retail or wholesale purposes and includes any operation engaged in the production of any agricultural plant to produce trees, shrubs, bushes, sod, flowers, ferns, plants or associated products that will be used in another location. A farm operation may include use of land for a nursery or greenhouse.

HOME OCCUPATION

Minor: A business activity resulting in a product or service for financial gain, conducted wholly or partly within a dwelling unit or accessory structure as a nonresidential use that is secondary and subordinate to the use of the dwelling for living purposes and which does not change the residential character of the dwelling unit or vicinity. The enterprise is conducted by an owner/operator who must reside on the premises and does not employ more than one other person in addition to the owner/operator and any other family participants in the home occupation who reside on the premises. Exterior evidence of this secondary use, if present at all, is limited to a small nameplate pursuant to 161-34.6. Customers, clients, or other business associates enter the premises infrequently or on an irregular daily basis. The business does not store business products, equipment, or vehicles outside. The enterprise normally produces only household quantities and types of waste and does not involve delivery truck visits or other traffic beyond that expected of a typical residence.

Major: A business activity resulting in a product or service for financial gain, conducted wholly or partly within a dwelling unit or accessory structure as a nonresidential use that is secondary and subordinate to the use of the dwelling for living purposes and which does not change the residential character of the dwelling unit or vicinity. The enterprise is conducted by an owner/operator who must reside on the premises and does not employ more than four persons, in addition to the owner/operator and any other family participants in the home occupation who reside on the premises. Other exterior evidence of this secondary use exists

regardless of the number of employees, and includes, but is not limited to parking; signage; customers, clients, and other business associates entering the premises daily or on a regular basis; storage of business products; placement of dumpsters; storage of equipment or commercial vehicles; delivery truck visits or other traffic beyond that expected of a typical residence; or noise, odors or vibrations occurring at the property line. Those major home occupations that require heavy duty equipment or trucks such as landscaping, freight, trucking, and more intense uses such as restaurants, tool or equipment rental, veterinary hospital or kennels, and others of a similar nature shall not be considered a major home occupation.

HOTEL, MOTEL, INN or TOURIST OR AUTO COURT

An establishment containing lodging accommodations designed for use by lodgers or travelers or temporary guests, with no provision in said accommodations for cooking in any individual room or suite.

HOUSEHOLD PETS

An animal residing within a residential dwelling unit and not raised for the production of products or for sale.

IMPERVIOUS SURFACE OR COVER

All materials or structures on or above the ground surface that prevents water from infiltrating into the underlying soils. Impervious surfaces include, without limitation: paved and/or gravel road surfaces, parking lots, driveways, and sidewalks; compacted dirt surfaced roads; building structures; roof tops and miscellaneous impermeable structures such as patios, pools, and sheds.

JUNKYARD

A lot, land or structure, or part thereof, used for the collecting, storage and sale of wastepaper, rags, scrap metal or discarded materials or for the collecting, dismantling, storage and salvaging of machinery or vehicles not in running condition and for the sale of parts thereof.

KENNEL, COMMERCIAL

Any lot or premises or portion thereof on which more than four dogs, cats, and other household domestic animals over four months of age are kept or on which more than two such animals are boarded for compensation or just kept for sale. A kennel may also be associated with and part of a veterinarian clinic.

LABORATORY

A structure equipped for scientific experiments, research, testing, or for the manufacture of drugs or other chemicals.

LAND USE ACTIVITY

Any construction or other activity which changes the use or appearance of land or a structure or the intensity of use of land or a structure. "Land use activity" shall explicitly include, but not be limited to, the following: new structures, expansions to existing structures, new uses, changes in or expansions of existing uses, roads, driveways, and excavations for the purpose of extracting soil or mineral deposits.

[Added 12-9-2008 by L.L. No. 7-2008]

LARGE-SCALE PLANNED DEVELOPMENT DISTRICTS

An area, approved by the Town Board, of minimum contiguous size, planned, developed, operated, and maintained as a single entity and containing one or more structures to accommodate commercial, manufacturing, or residential uses or a combination of such uses, and associated common areas, and accessory, customary and incidental to the approved uses.

LAUNDRY AND DRY CLEANER

An establishment providing for the washing and use of dry-cleaning chemicals to wash personal items.

LIVESTOCK

Domesticated animals raised for agricultural purposes to produce commodities for meat, dairy, furs, etc. Livestock includes but is not limited to commodities such as cattle, sheep, hogs, goats, horses, poultry, birds such as ostriches, emus, rheas and kiwis, farmed deer, farmed buffalo, fur bearing animals, and wool-bearing animals, such as alpacas and llamas, etc...

LOCAL WATERFRONT REVITALIZATION PROGRAM (LWRP)

Refers to the Town of Waterford's Local Waterfront Revitalization Program prepared for the New York State Department of State Division of Coastal Resources.

[Added 12-9-2008 by L.L. No. 7-2008]

LOT

A portion or parcel of land considered as a unit, devoted to a certain use or occupied by a building or a group of buildings that are united by a common interest or use, and the customary accessories and open spaces belonging to the same.

LOT AREA

See "area, lot."

LOT, CORNER

A lot which has an interior angle of less than 135° at the intersection of two street lines. A lot abutting upon a curved street shall be considered a corner lot if the tangents to the curve at the points of intersection of the side lot lines intersect at an interior angle of less than 135°.

LOT, DEPTH OF

A mean horizontal distance between the front and rear lot lines, measured in the general direction of its side lot lines.

LOT LINE

A line of record bounding a lot which divides one lot from another lot or from a public or private street or any other public space.

[Amended 10-7-1997 by L.L. No. 9-1997]

LOT LINE, FRONT

The lot line separating a lot from a right-of-way. It shall be measured from the point where one side line intersects with the right-of-way to the other side line that intersects with the right-of-way.

[Added 10-7-1997 by L.L. No. 9-1997]

LOT LINE, REAR

The lot line opposite and most distant from the front lot line.

[Added 10-7-1997 by L.L. No. 9-1997]

LOT LINE, SIDE

Any lot line other than a front or rear lot line. It shall be measured from the point where it intersects with the front lot line to the point where it intersects with the rear lot line.

[Added 10-7-1997 by L.L. No. 9-1997]

LOT, WIDTH OF

The width of a lot at the midpoint between the front and rear property lines measured at the shortest point between the two side lines.

[Amended 10-7-1997 by L.L. No. 9-1997]

MEDICAL CARE FACILITY

A facility or institution, whether public or private, principally engaged in providing services for health maintenance and the treatment of mental or physical conditions. It shall also

include laboratories, testing, and imaging facilities that provide support to medical professionals and their patients.

MINIMUM MEAN LOT WIDTH

Shall be equal to the existing minimum frontage width in each respective district.

[Added 10-7-1997 by L.L. No. 9-1997]

MOBILE HOME

A vehicle used for living or sleeping purposes and standing on wheels or on rigid supports.

MOBILE HOME PARK

A tract of land where two or more mobile homes are parked, or which is used or held out for the purpose of supplying to the public a parking space for two or more mobile homes.

NATURAL PROTECTIVE FEATURE

A characteristic of land that was not directly created or built by humans and serves to protect other lands, man-made structures, or persons from floods, wind, earthquakes, extreme heat or cold, excessive precipitation, erosion or landslides, or any other phenomenon in nature that could result in significant loss of life or property.

[Added 12-9-2008 by L.L. No. 7-2008]

NET ACREAGE

The number of acres available for development after all acreage having environmental constraints including wetlands, streams, rivers, lakes, canals, slopes greater than 15%, existing streets, easements, parks, lands officially designated on the Official Map (if any), and lands undevelopable due to drainage or adverse subsoil conditions is subtracted from the total.

NONCONFORMING BUILDING

A building or structure lawfully occupying a portion of a lot, which does not conform to the area, bulk, space, side yard or setback requirements of this chapter or which occupies a lot smaller than that permitted by this chapter.

NONCONFORMING USE

A building, structure or land lawfully occupied by a use that does not conform to the regulations of the district in which it is situated.

NURSERY

A structure where plants are cultivated and sold for retail or wholesale purposes and includes any operation engaged in the production of any agricultural plant to produce trees, shrubs, bushes, sod, flowers, ferns, plants, or associated products that will be used in another location. A nursery may include one or more greenhouses in which such plants are

grown.

NURSERY SCHOOL

A school designed to provide daytime care or instruction for two or more children from two to five years of age, inclusive, and operated on a regular basis.

NURSING OR CONVALESCENT HOME

Any dwelling used for the accommodation and care of persons with or recuperating from illness or incapacity, where nursing services are furnished.

OFFICIAL MAP

A map adopted by the Town of Waterford that conclusively shows the location and width of existing and proposed streets, public facilities, public areas, and infrastructure rights-of-ways.

OFFSTREET LOADING

Designated areas located adjacent to buildings where trucks may load and unload cargo.

OPEN SPACE

An unoccupied space open to the sky on the same lot with the building.

OUTDOOR THEATER

An outdoor space used to show movies or performances for drama, dance, music, or other live performances.

PARKING SPACE

An off-street space available for the parking of one motor vehicle and having an area of not less than one hundred sixty-two 162 square feet and with a minimum width of nine feet, exclusive of passageways and driveways thereto.

PERSONAL SERVICE SHOP

An establishment primarily engaged in providing services involving the care of a person or his or her apparel, such as a barbershop or beauty parlor, shoe repair, tailoring or dressmaking, optician, clothing rental shop, photographic studio, and other similar services.

PITCH AND PUTT AREA

A recreational facility having baseball batting cages, mini-golf and/or a golf driving range.

PLACE OF WORSHIP

A building, place, location, or conversion of real property for the purpose of religious exercise. The term "religious exercise" includes any exercise of religion, whether or not compelled by, or central to, a system of religious belief.

PLANNING BOARD

The duly designated planning board of the Town of Waterford, Saratoga County, New York.

PORTABLE ON-DEMAND STORAGE

Intended to cover any structure used for temporary storage including but not limited to portable on demand storage (PODS), storage and semi-trailers, or commercial box vans that are parked for temporary construction, or during renovation, or moving preparation.

POULTRY

Domestic fowl such as chickens, turkeys, ducks, and geese.

PRINCIPAL BUILDING

A building in which is conducted the main or principal use of the lot on which such building is located.

PRIVATE GARAGE

A structure that is accessory to a nonretail, commercial, or manufacturing establishment, building, or use and is primarily for the parking and storage of vehicles operated by the customers, visitors, and employees of the building and that is not available to the general public. A multi-family residential structure may also have a private garage which is a structure used for the parking and storage of vehicles owned and operated by the residents and that is not a commercial enterprise available to the general public.

PRIVATE RECREATION AREA

An area of land, including structures and related facilities, owned and operated by an individual resident, corporation, association, or group of individuals established for the fraternal, social, educational, recreational, or cultural enrichment of its members, including a Homeowners Association and to be used by those entities and their members but not by the general public.

PROFESSIONAL OFFICE, OFFICE OR BUSINESS OFFICE

A place in which business, clerical, or professional service activities are conducted. The term office does not include businesses that sell goods.

PUBLIC OR PRIVATE SCHOOL

A building or part thereof which is designed, constructed, or used for instruction or education including, but is not limited to elementary, parochial, private, secondary or vocational schools, and public higher education facilities, colleges, or universities. It shall also mean a business organized to operate for a profit, or an organization that operates not-for-profit offering instruction and training in a trade, service, or art.

PUBLIC PARK OR PLAYGROUND

An active recreational area with a variety of facilities open to the general public. A playground is a public park that includes equipment for younger children as well as court and field games.

PUBLIC TRUST LANDS

Properties that are considered held by the Town of Waterford or the State of New York due to the fact that they are not deeded to individuals. This may include land under water that is not specifically deeded to a property owner.

[Added 12-9-2008 by L.L. No. 7-2008]

RESTAURANT

The use or act of making goods and/or commodities available for purchase or lease to the public, with the intent that such goods shall be utilized directly by the purchaser and not resold.

RETAIL STORE

The location or structure from which retail sales are conducted.

RIDING ACADEMY

The use of land for the provision of commercial equine activities including, but not limited to riding lessons, trial riding activities or training of horses or through the production for sale of crops, livestock, and livestock products, or through both the provision of such commercial equine activities and such products. Under no circumstances shall this use be construed to include operations whose primary on-site function is horse racing.

Riding and training activities that are directly related to and incidental to the boarding and raising of horses, including riding lessons for persons who own or have a long-term lease (six months or longer) from the farm owner for the horse that is boarded at the farm and used for such activities, are part of a “commercial horse boarding” farm operation. Horse shows for horses either boarded at or owned by the farm operation, which are not open to the general public, are also part of the farm operation. Riding academies and other types of commercial equine operations are eligible for protection as farm operations for purposes of AML §305-a. A riding academy generally offers riding lessons to the public and to individuals that do not own or have a long-term lease for the horse that is boarded and used at the facility for such riding. Eligibility for AML §305-a protection is extended to not only horse training, but also to trail riding, riding lessons, and other commercial equine activities, regardless of whether the client is boarding a horse at the farm.

SCREENING OR BUFFERING

Open spaces, landscaped areas, fences, walls, berms, or any combination used to physically separate or screen one use or property from another so as to visually shield or block noise, lights, or other nuisances.

SENIOR CITIZEN

Any person aged 55 years and older.

SENIOR LIVING FACILITY

Housing designed for, and occupied by, at least one person 55 years of age or older per dwelling unit, and which has significant facilities and services specifically designed to meet the physical or social needs of older persons as described in federal 24 C.F.R Part 100 by the Department of Housing and Urban Development, or any amendments thereto. Other terms commonly used including, but not limited to assisted living facility, congregate residences, continuing care retirement community or retirement community shall also be considered as senior living facilities.

SHALL/SHOULD

The term 'shall' shall mean that something must be done, as opposed to the term 'should' which means that something is allowed, but not required.

SIGN

Any structure or part thereof, or any device attached to a structure or painted or represented on a structure, which shall display or include any letter, word, model, banner, flag, pennant, insignia, device, or representation used as or which is in the nature of the announcement, direction or advertisement. A sign includes any billboard, but does not include the flag, pennant or insignia of any nation or group of nations or of any state, city, or other political unit or of any political, educational, charitable, philanthropic, civic, professional, religious or like campaign, drive, movement, or event. However, a sign, as defined herein, shall not include a similar structure or device located within a building.

- (1) **BUSINESS SIGN:** A sign which directs attention to a business or profession conducted or to products sold upon the same lot. A "for sale" or "to let" sign relating to the lot on which it is displayed shall be deemed a business sign.
- (2) **ADVERTISING SIGN:** A sign which directs attention to a business, commodity, service, or entertainment conducted, sold, or offered elsewhere than upon the same lot.
- (3) **ILLUMINATED SIGN:** Any sign designed to give forth any artificial light or designed to reflect such light deriving from any source which is intended to cause such light or reflection. A "flashing sign" is an illuminated sign on which the artificial light is not maintained stationary and constant in intensity and color at all times when in use.

SOLAR FARM

A solar energy generation facility, whether a ground-mounted and/or rooftop installation, principally used to convert solar energy to electricity, whether by photovoltaics, concentrating solar thermal devices or various experimental solar technologies, designed and intended to supply energy primarily into a utility grid for sale to the general public or to supply multiple users located off-site on which the energy system is located.

SOLAR PANEL

A photovoltaic device capable of collecting and converting solar energy into electricity.

SOLAR PANEL, ROOF-MOUNTED

A solar energy system in which solar panels are mounted on top of the structure of a roof of any legally permitted building either as a flush-mounted system or as modules fixed to frames which can be tilted toward the south at an optimal angle.

SOLAR PANEL, GROUND-MOUNTED

A Solar Energy System that is anchored to the ground via a pole or other mounting system, detached from any other structure, that generates electricity for onsite or offsite consumption.

SPECIAL USE PERMIT

A land use which is deemed permissible within a given zoning district or districts, but which may have the potential to exhibit characteristics or create impacts incompatible with the purposes of such district. The special use shall, therefore, be subject to approval by the Planning Board in accordance with conditions set forth for such use, as well as other applicable provisions of this law.

STEEP SLOPE

Any slope with topographic gradient of 15% or higher, measured as sloping 15% or more vertical per 100 feet horizontal.

STOCKYARD/SLAUGHTERHOUSE

A place where animals are butchered for food.

STORY

That portion of a building included between the surface of any floor and the surface of the floor next above it, or, if there is no floor above it, then the space between any floor and the ceiling next above it.

STORY, HALF

A story under a gable, hip or gambrel roof, the wall plates of which, on at least two opposite exterior walls, are not more than two feet above the floor of such story.

STREET

A public or private way which affords the principal means of access to abutting properties.

STRUCTURE

Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.

THEATER, OUTDOOR

An open lot or part thereof, with its appurtenant facilities, devoted primarily to the showing of moving pictures or theatrical productions, on a paid-admission basis, to patrons seated in automobiles or on outdoor seats.

TOOL OR DIE MANUFACTURER

A commercial enterprise where cutting tools and forming or dies used by machine tools are made and used.

TRUCK TERMINAL

An area and building where trucks load and unload cargo and freight and where the cargo and freight may be broken down or aggregated into smaller or larger loads for transfer to other vehicles or modes of transportation.

UNFINISHED BUILDING

A building which does not have a permanent roof, does not have completely enclosed outside walls with the finish materials installed, all glazing in place, a permanent heating system, insulation, plumbing, permanent electric service or sewerage installed.

USE

The specific purpose for which land or a building is designed, arranged or intended or for which it is or may be occupied or maintained. The term "permitted use" or its equivalent shall not be deemed to include any nonconforming use.

VARIANCE, AREA

A variance from the area and bulk requirements or supplementary regulations of a related

character (such as amount, size, location of design or access, off-street parking, landscaping, signs) to authorize on a specific lot a permitted use which could not feasibly be established without relief from one or more of the dimensional requirements pertaining to the district.

VARIANCE, USE

A variance from the use regulations to allow the establishment on a specific lot of a use otherwise prohibited in the district.

WAREHOUSE AND STORAGE

A building or part of a building for storing of goods, wares, and merchandise, whether for the owner or for others, and whether for a public or private use.

WATER-DEPENDENT USE

An activity which requires a location in, on, over, or adjacent to the water because the activities require direct access to water and the use of water is an integral part of the activity. Examples of water-dependent uses include public and private marinas, yacht clubs, boat yards, commercial and recreational fishing facilities, waterborne commerce, ferries, marine educational or laboratory facilities, and water-related public and quasi-public utilities.

[Added 12-9-2008 by L.L. No. 7-2008]

WATER-ENHANCED or WATER-RELATED USES

Uses that have no critical dependence on obtaining a waterfront location, but the profitability of the use and/or the enjoyment level of the users is increased significantly when it is adjacent or has visual access to the waterfront.

[Added 12-9-2008 by L.L. No. 7-2008]

WATER IMPOUNDMENT

A use or structure intended to retain water for current or future consumption or use, including but not limited to water towers, reservoirs, and dams.

WETLAND

Includes both tidal wetlands, as defined in Article 25 of the New York State Environmental Conservation Law, and freshwater wetlands, as defined in Article 24 of the New York State Environmental Conservation Law.

[Added 12-9-2008 by L.L. No. 7-2008]

YARD (front, side and rear)

An open, unoccupied space on the same lot with a main building. The depth (or width) of

the yard shall be measured as the least distance between the nearest covered portion of the building and the property line.

ZONING BOARD OF APPEALS

The body officially constituted by the Town of Waterford Town Board whose principal duties are to interpret the zoning code, hear appeals and, where appropriate, grant variances from the strict application of the regulations.

ZONING ORDINANCE

The Zoning Ordinance of the Town of Waterford, Saratoga County, New York.

§ 161-4 Interpretation; prevalence of more restrictive provisions.

- A. Minimum requirements. The provisions of this chapter shall be held to be the minimum requirements for the promotion of the public health, safety, morals, and welfare.

- B. Relationship with other laws. Where the conditions imposed by any provision of this chapter upon the use of land or buildings or upon the bulk of buildings are either more restrictive or less restrictive than comparable conditions imposed by any other provisions of this chapter or any other law, ordinance, resolution, rule or regulation of any kind, the regulations which are more restrictive, or which impose higher standards or requirements shall govern.

- C. Effect on existing agreements. This chapter is not intended to abrogate any easement, covenant, or any other private agreement, provided that, where the regulations of this chapter are more restrictive or impose higher standards or requirements than such easements, covenants or other private agreements, the requirements of this chapter shall govern.

§ 161-5 General regulations.

- A. Application. Except as hereinafter provided:
 - (1) No building or land shall hereafter be used or occupied, and no building or part thereof shall be erected, moved or altered unless in conformity with the regulations herein specified for the district in which it is located.

 - (2) No building shall hereafter be erected or altered to exceed the height, to accommodate or house a greater number of families, to occupy a greater percentage of lot area or to have narrower or smaller rear yards, front yards, side yards or inner or outer courts than is specified herein for the district in which such building is located.

 - (3) No part of a yard or other open space about any building, required for the purpose of

complying with the provisions of this chapter, shall be included as a part of a yard or other open space similarly required for another building except as may be allowed in a conservation subdivision.

- (4) No lot, yard, setback, parking area or other space shall be so reduced in area, dimension, or capacity as to make said area, dimension, or capacity less than the minimum required under this chapter. If already less than the minimum required under this chapter, said area, dimension or capacity shall not be further reduced.
- B. Building permits. No building or structure shall be erected, added to or structurally altered until a building permit has been issued, as specified in Article VI, signifying that the building or structure and proposed use thereof complies with the provisions of this chapter. This provision shall not apply to any building or structure used for a nonconforming use on the date of enactment of this chapter, so long as the building or structure is continued in use for the same purpose.
- C. Certificates of occupancy. No land shall be changed in use, and no building or structure hereafter erected, altered or extended shall be used or changed in use, until a certificate of occupancy has been issued, as specified in Article VI, signifying that such use or change in use complies with the provisions of this chapter. This provision shall not apply to any land or building used for a nonconforming use on the date of this chapter, so long as the land or building involved is continued in use for the same purpose.
- D. Responsibility. The final responsibility for the conforming of buildings and use to the requirements of this chapter shall rest with the owner or owners of such building or use and the property on which it is located.
- E. Validity of permit. Any building on which the construction has been lawfully started and diligently prosecuted before the effective date of this chapter may be completed. The entire building shall be completed within two years from the date of this chapter and in accordance with such plans as originally filed.

§ 161-6 Lot area and dimensions.

- A. Contiguous parcels. When two or more parcels of land lack adequate area and dimension to meet the minimum standards for the use district in which they are located, are contiguous and are held in one ownership, they shall be used as one zoning lot or, if possible, be resubdivided to conform to district standards.
- B. Lots or parcels of land of record. Any single lot or parcel of land held in one ownership which was of record at the time of adoption of this chapter, and when the owner owns no contiguous parcels of land, that does not meet the requirements for minimum lot width and

area may be utilized for a permitted use, provided that yards, courts or usable open spaces are not less than 75% of the minimum required dimensions of areas.

§ 161-7 Access to public streets.

Except as otherwise provided for in this chapter, every building shall be constructed or erected upon a lot or parcel of land which abuts upon an existing or platted street, unless a permanent easement of access to a public street was of record prior to the adoption of this chapter.

§ 161-8 Enumeration of districts.

[Amended 8-6-1968; 11-29-1990; 2-27-1997 by L.L. No. 3-1997; 10-7-1997 by L.L. No. 6-1997; 3-3-2009 by L.L. No. 10-2009]

The Town of Waterford is hereby divided into the following zoning districts:

R-75	Residence District
R-100	Residence District
R-Rural	Residential District
C-1	Commercial District
C-2	Commercial District
C-3	Commercial District
M-1	Manufacturing District
L-C	Land Conservation District
M-2	Industrial District
PD	Planned Development District

§ 161-9 Zoning Map.

The locations and boundaries of the zoning districts hereby established are shown on a map entitled "Zoning Map of the Town of Waterford, N.Y." This Zoning Map and all notations, references and other information shown thereon accompanies this chapter as Appendix A. The Town Board shall cause to be delineated on the Zoning Map, by a qualified person, all amendments to the district boundaries which are authorized by ordinance or law, immediately upon the effective date of such ordinance or law, indicating the title and date of the ordinance or law.

§ 161-10 Determination of district boundaries.

Where uncertainty exists as to the locations of any boundaries shown on the Zoning Map, the following rules shall apply:

- A. District boundary lines are intended to follow center lines of streets or alleys, rights-of-way, watercourses, or lot lines, or be parallel or perpendicular thereto, unless such boundary lines are fixed by dimensions as shown on the Zoning Map.
- B. Where such boundaries are indicated as approximately following lot lines, such lot lines shall be construed to be such boundaries.

- C. Where a district boundary divides a lot, the location of such boundary, unless the same is indicated by dimensions shown on the map, shall be determined by the use of the scale appearing thereon, after accurate placement of the lot on the map is determined to ensure accurate measurement by use of the scale.
- D. If, after the application of the foregoing rules, uncertainty exists as to the exact location of a district boundary, the Board of Appeals shall determine and fix the location of said line.
- E. Where a district boundary line divides a lot of record held in one ownership at the time of adoption of said district line, the regulations for the less-restricted portion of such lot shall apply to the remainder of said lot up to a distance of not more than 50 feet from said district line.
- F. Any land hereafter annexed to or consolidated with the Town of Waterford shall be deemed to be zoned R-100 until said land is reclassified by an amendment to this chapter.

Article II District Use Regulations

§ 161-11 Purposes of Districts

- A. **Residence Districts.** The Residence Districts (R-75, R-100, and R-Rural) are established to provide for the health, safety, and general welfare of the residents of the Town and to promote primarily residential uses by allowing for a wide range of types of residential units and other limited uses that are consistent with residential neighborhoods. Some non-residential uses that are compatible with residential uses are permitted in the residence districts, including but not limited to churches, schools, childcare facilities, and home occupations. More specifically, the purposes of each residence district are to:
 - R-75: Allow for a variety of residential styles including single, two-family, and multi-family at the highest density allowed in Waterford (11,250 square feet minimum lot size for single-family dwelling and 10,000 square feet for two-family and multi-family plus additional space per unit).
 - R-100: Allow for primarily residential uses at a moderately high density (15,000 square feet for single-family dwellings with 10,000 square feet for two-family and multi-family dwellings plus additional space per unit).
 - R-Rural: Allow for primarily residential uses at a lower density (2 acres for a one-family dwelling) with farming and larger lots in a more rural atmosphere.
- B. **Commercial Districts.** The Commercial Districts (C-1, C-2, C-3) are established primarily to promote retail, service, office, and other commercial uses. Although residential uses are

allowed as per Table 1 in these districts, these are districts designed to promote a variety of commercial uses. More specifically, the purposes of each commercial district are to:

C-1: Allow for and encourage primarily commercial uses including office, restaurant, and retail along with a variety of residential uses.

C-2: Allow for and encourage a mixture of commercial uses and a variety of residential uses, but not intense retail commercial uses.

C-3: Allow for and encourage low intensity development of commercial enterprises which would be compatible with existing residential uses in these areas.

C. Manufacturing Districts M1 and M2. The Manufacturing Districts (M-1 and M-2) are established to promote larger scale commercial and manufacturing uses that require larger footprints and involve greater employees and/or higher levels of traffic or intensity of use. Manufacturing Districts are established in locations traditionally used for manufacturing in Waterford. The goal of the Town is to continue similar land uses in these areas. M1 and M2 districts differ on in permitted uses.

D. Land Conservation District (L-C) is established to protect environmentally sensitive locations, waterfront, and shoreline areas, and to minimize damage to structures or loss of life in areas subject to steep topography, wetness, flooding or other natural conditions. The L-C district is further established to protect lands that are non-urban in their development, such as cemeteries and lands in the Barge Canal System.

E. Waterfront Overlay District (WO) is established to protect the waterfront and shoreline corridors along the Erie and Champlain Canal Systems and Hudson and Mohawk Rivers, in accordance with the adopted Town and Village of Waterford Local Waterfront Revitalization Program (LWRP), the Town of Waterford Comprehensive Plan as well as regional and state canal and river plans and goals. The purpose of the district is to maintain the undeveloped areas of the waterfronts and to provide a consistent level of protection of the visual, environmental and historic resources in these locations.

§ 161-12 **Table 1: Use Table by District**

P = Permitted by Right with No Planning Board Review

SPR = Requires Site Plan Review and Approval by the Planning Board

SUP = Requires Special Use Permit by the Planning Board

X = Not Permitted

NA = Not Applicable

Town of Waterford Zoning Code Use Table	R-75 District	R-100 District	R-Rural District	C-1 District	C-2 District	C-3 District	M-1 District	M-2 District	L-C District. See 161
Residential Uses									
Convalescent or nursing homes or homes for the aged.	SUP	SUP	SUP	X	X	X	X	X	X
Multi-family dwellings.	SUP	SUP	X	X	X	X	X	X	X
One-family dwellings.	P	P	P	P	P	P	P	X	X
Senior Citizen independent Living Facility	SUP	SUP	X	X	X	SUP	X	X	X
Two-family dwellings (see above for multi-family)	SUP	SUP	SUP	SUP	SUP	SUP	X	X	X
Agriculture or Agriculturally Related Uses									
Agricultural product packaging, processing or storage facilities, except as prohibited under Subsection C of this section.	X	X	X	X	X	X	SPR	SPR	X

Town of Waterford Zoning Code Use Table	R-75 District	R-100 District	R-Rural District	C-1 District	C-2 District	C-3 District	M-1 District	M-2 District	L-C District. See 161
Cider plants, cold storage or agricultural processing plants not incidental to a permitted principal use or a customary agricultural use.	X	X	X	X	X	X	SPR	SPR	X
Custody of poultry and livestock with a minimum of 5 acres and meeting requirements pursuant to 161-33. The basis on which the Board shall grant such a permit shall be such use shall not constitute a public or private nuisance.	SUP	SUP	SUP	X	X	X	X	X	X
Farms or other customary agricultural uses and structures, including woodland and commercial woodlots and reforestation areas, on-farm nurseries and greenhouses and customary farm accessory buildings, but not including residential dwellings. See also Article V of this chapter	X	X	SUP	X	X	X	X	X	P
On-farm markets or direct sales of agricultural products that are grown on premises	X	X	SUP	X	X	X	X	X	SUP

Town of Waterford Zoning Code Use Table	R-75 District	R-100 District	R-Rural District	C-1 District	C-2 District	C-3 District	M-1 District	M-2 District	L-C District. See 161
Accessory Uses									
Accessory buildings, uses or structures customarily incidental to a permitted single or two-family residential principal use.	P	P	P	P	P	P	P	P	P
Accessory buildings, uses or structures customarily incidental to a permitted multi-family principal use	SPR	SPR	X	X	X	X	X	X	X
Accessory buildings, uses or structures customarily incidental to a permitted commercial principal use	X	X	X	SPR	SPR	SPR	SPR	SPR	X
Business or advertising signs as regulated under Article V of this chapter. ¹	X	X	X	P	P	P	P	P	X
Identification signs or nameplates as regulated in Article V of this chapter.	P	P	P	P	P	P	P	P	X
Portable On-Demand Storage with Building Permit for Maximum of 45 Days	P	P	P	P	P	P	P	P	X
Solar Panels Roof-Mounted on Existing or Proposed Residence or Commercial Building or Accessory	P	P	P	P	P	P	P	P	X

¹ Any sign associated with a use requiring site plan approval or a special use permit part of the application and shall be reviewed by the Planning Board at time of review.

Town of Waterford Zoning Code Use Table	R-75 District	R-100 District	R-Rural District	C-1 District	C-2 District	C-3 District	M-1 District	M-2 District	L-C District. See 161
Structure									
Solar Panels, Ground-Mounted Associated with Individual Residential (See Accessory Use)	P	P	P	P	P	P	P	P	X
Wind Facility, Use for Individual Property	X	X	SUP	X	X	X	SPR	X	X
Commercial and Industrial Uses									
Adult Uses	See Chapter 47 of the Town of Waterford Code								
Antique sales, where accessory to a residence.	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP
Any use equivalent to other permitted uses in the M1 and M2 Districts, but not including any use which may become hazardous, noxious or offensive by reason of the emission of odor, dust, smoke, cinders, gas, fumes, noise, vibration, refuse matter or water-carried wastes.	NA	NA	NA	NA	NA	NA	SPR	SPR	NA
Any use equivalent to uses specifically prohibited in the M1 and M2 Districts	NA	NA	NA	NA	NA	NA	X	X	NA

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Town of Waterford Zoning Code Use Table	R-75 District	R-100 District	R-Rural District	C-1 District	C-2 District	C-3 District	M-1 District	M-2 District	L-C District. See 161
Auto wrecking, including junkyards.	X	X	X	X	X	X	X	X	X
Automotive repair, automotive service stations	X	X	X	X	SPR	X	X	X	X
Automatic or coin-operated laundries or dry cleaners or pickup stations.	X	X	X	SPR	SPR	X	X	X	X
Banks or savings or loan institutions.	X	X	X	SPR	SPR	SPR	X	X	X
Bed and Breakfast	SUP	SUP	SUP	SUP	SUP	SUP	X	X	X
Bowling Alley	X	X	X	X	SPR	X	X	X	X
Businesses or professional offices.	X	X	X	SPR	SPR	SPR	X	X	X
Cemeteries	X	X	SUP	X	X	X	X	X	P
Churches or other places of worship, parish houses, rectories, or convents.	SUP	SUP	SUP	SUP	SUP	SUP	SUP	SUP	X
Clubs or lodges.	SUP	SUP	SUP	SPR	SPR	SPR	X	X	X
Commercial recreation, excluding outdoor theaters.	X	X	X	X	SPR	X	X	X	X
Convenience stores with fuel station	X	X	X	SPR	SPR	X	SPR	SPR	X
Convenience store without fuel station	X	X	X	SPR	SPR	SPR	X	X	X

Town of Waterford Zoning Code Use Table	R-75 District	R-100 District	R-Rural District	C-1 District	C-2 District	C-3 District	M-1 District	M-2 District	L-C District. See 161
Real estate or insurance offices, law offices, engineers' offices, architects' offices or chiropractors' or chiropodists' offices as home occupations only.	P if Minor; SUP if Major	P if Minor; SUP if Major	P if Minor; SUP if Major	P if Minor; SPR if Major	P if Minor; SPR if Major	P if Minor; SPR if Major	X	X	X
Dentists' offices, real estate or insurance offices, law offices, engineers' offices, architects' offices or chiropractors' or chiropodists' offices	X	X	X	SPR	SPR	SPR	X	X	X
Drive-in service establishments where business is transacted between the establishment and a person in a parked or stationary automotive vehicle, except outdoor theaters.	X	X	X	SPR	X	X	X	X	X
Family Day Care	P	P	P	P	P	P	X	X	X
Federal, state, or municipal public buildings or uses or utility or essential service buildings.	SPR	SPR	P	SPR	SPR	SPR	SPR	SPR	X
Fueling stations.	X	X	X	SPR	SPR	X	SPR	SPR	
Funeral homes, subject to the provisions of Article V of this chapter.	SUP	SUP	SUP	X	SPR	SPR	X	X	X

Town of Waterford Zoning Code Use Table	R-75 District	R-100 District	R-Rural District	C-1 District	C-2 District	C-3 District	M-1 District	M-2 District	L-C District. See 161
Golf courses	X	X	SUP	X	X	X	X	X	X
Home occupations, minor	P	P	P	P	P	P	P	X	X
Home occupations, major	X	X	X	SPR	SPR	SPR	SPR	X	X
Individual manufactured homes on a foundation.	X	SUP	X	X	X	X	X	X	X
Industrial Use	X	X	X	X	X	X	SPR	SPR	X
Laboratories, research, experimental or testing, provided that no operation shall be conducted which may cause hazardous, noxious or offensive conditions in the District in which such laboratory is located.	X	X	X	X	X	X	SPR	SPR	X
Manufacture of alcohol or dye.	X	X	X	X	X	X	X	X	X
Manufacture of cement, lime, gypsum, plaster of Paris or abrasives.	X	X	X	X	X	X	X	X	X
Manufacture of corrosive acid or alkali.	X	X	X	X	X	X	X	X	X
Manufacture of fertilizer, glue or size involving the recovery or refining of products from fish or animal refuse.	X	X	X	X	X	X	X	X	X

Town of Waterford Zoning Code Use Table	R-75 District	R-100 District	R-Rural District	C-1 District	C-2 District	C-3 District	M-1 District	M-2 District	L-C District. See 161
Manufacture of fireworks, munitions, or explosives.	X	X	X	X	X	X	X	X	X
Manufacture, compounding, assembling, fabricating or treatment of articles or merchandise from the following previously prepared materials: fiber, fur, glass, leather, paper, plastics, precious or semiprecious stones or metals, sheet metal not thicker than 18 gauge, textiles, tobacco, wax, wire or wood or silicones.	X	X	X	X	X	X	P	P	X
Medical Care Facility	X	X	X	SPR	SPR	SPR	X	X	X
Mini Storage Facilities	X	X	X	SUP	SUP	X	SPR	SPR	X
Mixed Use Commercial/Residential Buildings	X	X	X	SPR	SPR	SPR	X	X	X
Mixed commercial use with retail, restaurant, and fuel uses on the same premises	X	X	X	SPR	SPR	X	SPR	SPR	X
Motels or hotels.	X	X	X	SPR	SPR	X	X	X	X
New York State Barge Canal uses.	X	X	X	X	X	X	X	X	P
Nursery schools, day care	SUP	SUP	SUP	SPR	SPR	X	X	X	X

Town of Waterford Zoning Code Use Table	R-75 District	R-100 District	R-Rural District	C-1 District	C-2 District	C-3 District	M-1 District	M-2 District	L-C District. See 161
center, commercial day care center									
Office Building	X	X	X	X	SPR	X	X	X	X
Outdoor commercial recreation including horse riding	X	X	X	X	SPR	X	X	X	X
Parks, playgrounds, athletic field	P	P	P	P	P	P	P	P	P
Personal service shops such as barber, beauty parlor, tailor, or shoe repair, not as a home occupation.	X	X	X	SPR	SPR	SPR	X	X	X
Physicians or surgeons' offices, subject to the provisions of this chapter	X	X	X	SPR	SPR	SPR	X	X	X
Private recreation areas or use of land involving archery target practice.	X	X	SUP	X	X	X	X	X	X
Private recreation areas.	X	X	SUP	X	X	X	X	X	SUP
Production or refining of petroleum or other flammable liquids.	X	X	X	X	X	X	X	X	X
Public or private schools	P	P	P	P	P	P	X	X	X

Town of Waterford Zoning Code Use Table	R-75 District	R-100 District	R-Rural District	C-1 District	C-2 District	C-3 District	M-1 District	M-2 District	L-C District. See 161
Outdoor recreation areas operated by membership organizations for the recreational benefit of their members and not for gain.	P	P	P	P	P	P	X	X	SUP
Rendering of grease, tallow, or fats.	X	X	X	X	X	X	X	X	X
Restaurants or other places for serving food and beverages.	X	X	X	P	P	X	X	X	X
Mixed commercial use with retail, restaurant, and fuel uses on the same premises	X	X	X	SPR	SPR	X	SPR	SPR	X
Retail stores.	X	X	X	SPR	SPR	X	X	X	X
Service enterprises engaged in the incidental retail sale of goods or products associated with the operation in which sales revenues do not exceed 50% of gross annual revenues.	X	X	X	X	X	P	X	X	X
Solar Farm	X	X	SUP	X	X	X	SUP	X	X
Stockyards or slaughterhouses.	X	X	X	X	X	X	X	X	X
Telecommunication Towers	See Section 161-34.5								
Theater	X	X	X	SPR	SPR	X	X	X	X
Tool or die manufacture, including precision instruments.	X	X	X	X	X	X	SPR	SPR	X

Town of Waterford Zoning Code Use Table	R-75 District	R-100 District	R-Rural District	C-1 District	C-2 District	C-3 District	M-1 District	M-2 District	L-C District. See 161
Truck terminals or places for the storage or maintenance of vehicles or trailers used in long-distance freight hauling.	X	X	X	X	X	X	SPR	SUP	X
Warehouse or storage facilities (Commercial), excluding commercial crude oil, petroleum or natural gas storage tanks.	X	X	X	X	X	X	SPR	SPR	X
Water impoundment for recreation or storage.	X	X	SUP	X	X	X	X	X	X
Wholesale, storage, freight terminal, or utility uses	X	X	X	X	X	X	SPR	SPR	X

§ 161-13 **District Specific Regulations**

A. C-3 District

- (1) Existing structures may not be altered to the extent that they conflict with the residential character of the area.
- (2) New structures must be developed to reflect the residential character of the area. Structures must be compatible with the scale and appearance of other residential structures.

B. L-C and R Rural Districts. When granting special permits in the Mohawk River/Waterford Flight area, the Planning Board shall ensure that the scenic qualities of the Waterford Flight corridor and public access to the Flight and its recreational assets are maintained. New uses allowed by special permit here shall include provisions for adequate buffering or screening, parking located at the rear of parcels (not on Flight Lock Road) and compact signage. Land uses shall be designed to take advantage of scenic views of the Mohawk River and Cohoes Harmony Mills Buildings.

C. Riverbend Planned Development District – See Article X.

D. Waterfront Overlay District – See Article XII.

E. L-C Land Conservation District. The Land Conservation District is delineated to include those areas where substantial development of the land in the way of buildings or structures is not desirable because of:

- (1) Special or unusual conditions of topography, drainage, floodplain or other natural conditions, whereby considerable damage to buildings or structures and possible losses of life may occur due to the process of nature, or the lack of proper public facilities or improvements results in the land not being suitable for development at the present time, and where such facilities or improvements must be undertaken on an area-wide rather than individual-parcel basis in order to serve adequately at a reasonable cost to the Town of Waterford.
- (2) Land which has characteristics that are non-urban in their development, such as cemeteries and lands in the Barge Canal System.
- (3) Permitted uses. To promote these purposes, no land shall be used and no building shall be built, altered or erected to be used for any purpose other than those identified in Table 1 and:
 - (a) Farms or other agricultural operations, including woodland and reforestation areas, nurseries, greenhouses, and usual farm accessory buildings.

- (b) Parks, playgrounds, athletic fields, golf courses, riding academies, game preserves and other similar uses, including usual accessory buildings.
 - (c) Municipal or public utility buildings or structures.
 - (d) Cemeteries.
 - (e) New York State Barge Canal uses.
- (4) Any new use or change of use approved in the L-C District shall be appropriately screened and buffered from public view. Natural vegetation shall be maintained to the maximum extent feasible.

§ 161-13 to 17 Reserved

**Article III
Area, Height and Bulk Requirements**

§ 161-18 Table 2. Bulk Table The area, height and bulk requirements for permitted uses and special permitted uses are as follows:

District	Minimum Lot Size Area (Square Feet)	Minimum Frontage Width (Feet per Unit)	Maximum Building Coverage (Percent)	Minimum Floor Area (Square Feet)	Maximum Building Height (Feet)	Minimum Yard Dimension (Feet)			
						Front	One Side	Both Sides	Rear
R-75									
One-family Dwellings	11,250 sf	75	30	900 per unit	50	40	10	25	30
Two-family Dwellings	10,000 sf per dwelling unit	150	25	900 per unit	50	50	20	25	50
Multi-Family Dwellings	10,000 plus 10,000 sf per dwelling unit	75	25	900 per unit	50	50	20	50	50
Public Utilities	None	None							
Convalescent or nursing homes	2,000 per bed	150	25	None	50	40	10	25	30
Nursery Schools	11,250	75	30	None	50	40	10	25	30
Physicians or Surgeons Office	11,250	75	25	None	50	40	10	25	30
Other Professional Offices	11,250	75	25	None	50	40	10	25	30
Funeral Homes	40,000	270	20	None	50	40	10	25	30
Cider Plant, Cold Storage, Ag Processing	40,000	270	20	None	50	40	10	25	30
Farms	5 acres	150	None	None	50	40	10	25	30
Churches or other places	40,000	270	None	None	50	40	10	25	30

District	Minimum Lot Size Area (Square Feet)	Minimum Frontage Width (Feet per Unit)	Maximum Building Coverage (Percent)	Minimum Floor Area (Square Feet)	Maximum Building Height (Feet)	Minimum Yard Dimension (Feet)			
of worship, Convents									
Parish House or rectory	11,250	75	30	800	50	40	10	25	30
Public or Private Schools	40,000	270	None	None	50	40	10	25	30
Public Buildings	40,000	270	None	None	50	40	10	25	30
R-100									
One-family Dwellings	15,000	100	25	1000 per unit	50	40	10	25	30
Two-family Dwellings	10,000 sf plus 10,000 sf per dwelling unit	200	25	1,000 per unit	50	50	20	35	50
Multi-Family Dwellings	10,000 sf plus 10,000 sf per dwelling unit	100	25	1,000 per unit	50	50	25	35	50
Public Utilities	None	None							
Convalescent or nursing homes	15,000 sf or 2,000 sf per bed, whichever is larger	100 ft or 14 ft per bed, whichever is larger							
Nursery Schools	11,250	100	25	None	50	40	10	25	30
Physicians or Surgeons Office	15,000	100	25	None	50	40	10	25	30
Other Professional Offices	15,000	100	25	None	50	40	10	25	30
Funeral Homes	40,000	270	20	None	50	40	10	25	30
Mobile Home Parks	250,000					40	10	25	30
Individual Mobile	15,000	100				40	10	25	30

District	Minimum Lot Size Area (Square Feet)	Minimum Frontage Width (Feet per Unit)	Maximum Building Coverage (Percent)	Minimum Floor Area (Square Feet)	Maximum Building Height (Feet)	Minimum Yard Dimension (Feet)			
Homes									
Farms	5 acres	100	50	None		40	10	25	30
Churches or other places of worship, Convents	40,000	270	None	None	50	40	10	25	30
Parish House or rectory	15,000	100	25	800	50	40	10	25	30
Public or Private Schools	40,000	270	50		50	40	10	25	30
Public Buildings	40,000	270	50		50	40	10	25	30
R-Rural									
Farms	10 acres	100	50			40	10	25	30
Farm Accessory Building						50	50	100	50
One-family Dwelling and All Other Permitted Uses and all other Special Permitted Uses	2 acres	200	None	None	50	40	25	50	30
C-1, C-2, C-3, M-1 and M-2									
C-1, C-2 and C-3 One-family	Same as in R-75			900 per unit	Same as in R-75				
C-1, C-2 and C-3 Two-Family Dwelling				900 per unit					
C-1, C-2 and C-3 Multi-Family Dwelling				900 per unit					
C-1 All Commercial Permitted and Special Permitted Uses	None	None	None	None	50*	30		(1)	(2)
C-2 All Commercial Permitted Uses and	None	None	None	None	50	30		(1)	(2)

District	Minimum Lot Size Area (Square Feet)	Minimum Frontage Width (Feet per Unit)	Maximum Building Coverage (Percent)	Minimum Floor Area (Square Feet)	Maximum Building Height (Feet)	Minimum Yard Dimension (Feet)			
Special Permitted Uses except Mobile Home Parks									
C-2 Mobile Home Parks	250,000					30	10	25	30
C-3 All Commercial Permitted and Special Permitted Uses	None	None	None	None	30	30		(1)	(2)
Cider Plant, Cold Storage, Ag Processing in M1 and M2 Districts Only	40,000	270	20	None	50	40	10	25	30
M-1 Permitted Uses, including residential uses	None	None	None	None	50	40		(1)	(2)
M-1 Special Permit Uses	None	None	None	None	50	40		(1)	(2)
M-2 Permitted Uses	None	None	None	None	50	40		(1)	(2)
LC		See 161-14							
WOD	See 161-78 (A) to (C) Density and dimensions shall be the same as the underlying zoning district.								

*The Planning Board may allow for zero side yard setbacks where appropriate in the C1 district for commercial uses.

- (1) Not contiguous with a residence district, no side yard requirement. If contiguous with a residence district, then 20 feet where it abuts the residence district.
- (2) Not contiguous with a residence district, no rear yard requirement. If contiguous with a residence district, then 30 feet where it abuts the residence district.

§ 161-19 to 23 Reserved

Article IV
Nonconforming Uses and Structures

§ 161-24 Continuation.

Any nonconforming use, building or structure which existed lawfully at the time of enactment of this chapter may be continued, subject to the regulations which follow in this article.

§ 161-25 Registration.

All nonconforming uses shall be registered by the Building Inspector.

§ 161-26 Nonconforming use of land.

- A. The nonconforming use of land shall not be enlarged or extended beyond the area of land occupied by such use at the time of adoption of this chapter.
- B. A nonconforming use of land shall not be changed to another nonconforming use.
- C. If a nonconforming use of land is discontinued for a period of 12 consecutive months, it shall not be renewed, and any subsequent use of the land shall conform to the regulations of the district in which the land is located, except upon special extension, not to exceed 12 months, to be granted upon application to the Board of Appeals and in its discretion.

§ 161-27 Nonconforming use of buildings.

- A. Additions. A nonconforming building shall not be added to or enlarged in any manner, unless such nonconforming building and the use thereof is made to conform to all the regulations of the district in which it is located.
- B. Alterations and repairs. No structural alterations shall be made to any nonconforming building, unless such alterations are required by law or except as authorized under Subsection **E** of this section; provided, however, that such maintenance and repairs as are required to keep a nonconforming building in sound condition shall be permitted.
[Amended 9-1-1987 by L.L. No. 3-1987]
- C. Changes. A nonconforming use of a building may not be changed except to a conforming use. When so changed, the nonconforming use may not be resumed thereafter.
- D. Discontinuance. A nonconforming use of a building, or a portion thereof, which is discontinued for a period of 12 consecutive months, shall not be reestablished, and any subsequent use shall conform to the use regulations of the district in which the premises are located. A use shall be deemed to have been discontinued under either of the following conditions.

- (1) Vacancy of a nonconforming use building or discontinuance of a nonconforming use for

a period of 12 consecutive months.

- (2) Manifestation of a clear intent on the part of the owner to abandon the nonconforming use.
- E. Extension or enlargement. No conforming use of a building shall hereafter be extended or enlarged, except that, when authorized by the Board of Appeals as a special permit, a building containing a nonconforming use existing on the effective date of this chapter or amendment creating such nonconforming use may be enlarged to an extent not exceeding 75% of the gross floor area of the existing building or buildings devoted to such use, provided that:
- (1) No more than one such enlargement or extension shall be permitted for any nonconforming use, notwithstanding any subsequent change in tenancy or ownership.
 - (2) Such enlargement or extension shall not result in an extension beyond the premises on which such nonconforming use is located.
 - (3) Such enlargement or extension shall not decrease any required yard dimension or exceed the maximum coverage permitted to a single-family residence on a minimum size lot in the same district in which such nonconforming use is located. **[Amended 9-1-1987 by L.L. No. 3-1987]**
 - (4) Parking and off-street loading space shall be as required in Article V of this chapter. Such requirements shall be computed for the entire nonconforming use, including the original structure and the proposed extension or enlargement. **[Amended 9-1-1987 by L.L. No. 3-1987]**
- F. Restoration. A building devoted to a nonconforming use which is destroyed or damaged may be repaired or rebuilt and thereafter used for the same nonconforming use, provided that such restoration or repair is commenced within 18 months after the destruction or damage and provided that such repair or restoration is on the same land premises.
- G. Removal. If any building in which any nonconforming use is conducted is hereafter removed, the subsequent use of the land on which such building was located, and the subsequent use of any building erected thereon shall conform to the regulations of the districts.
- H. Validity of permit. Any building intended for a nonconforming use, on which the construction has been lawfully started and diligently prosecuted before the effective date of this chapter, may be completed. The entire building shall be completed within two years from the date of this chapter.

**§ 161-28 Effect on wrecking yards and junkyards.
[Amended 9-1-1987 by L.L. No. 3-1987]**

Any automobile wrecking yard or junkyard in existence within the town at the date of enactment of this chapter shall be discontinued within three years of the date of enactment of this chapter. See also Chapter 158A (Vehicles, Inoperable, Abandoned, Junk and Oversized).

Article V
Supplementary Regulations

§ 161-29 Additional Area, height and bulk regulations.

A. Regulations in Article III, Regulations governing lot area and lot width, front, side and rear yards, building coverage and building height are as specified in Article III. All permitted uses are subject to the regulations appearing in Articles II and III and to additional regulations as follow.

B. Additional area and yard regulations.

(1) Lots of less than required dimensions.

(a) Any lot with an area or a width less than that required in the district in which said lot is located may be used for any purpose permitted in the district, provided that all other regulations prescribed for the district shall be complied with and, further, provided that said lot was held under separate ownership at the time of the adoption of this chapter and the owner thereof owned no adjoining land that could be combined with said lot to meet the dimension requirements.

(b) In the event that compliance with the yard and coverage requirements of the district would result in a residential structure of less width than 24 feet, the Zoning Board of Appeals shall determine and fix yard and coverage requirements for said lot to permit its reasonable utilization for a permitted use.

(2) Reduction of lot area. The minimum yards and open spaces, including lot area per family, required by this chapter for any building existing at the time of adoption of this chapter or for any building hereafter erected or structurally altered shall not be encroached upon or considered as yard or open space requirements for any other building, nor shall any lot be reduced below the district requirements of this chapter.

(3) Corner lots. On a corner lot in any district where a front yard is required, a yard shall be provided on each street, equal in depth to the required front yard on such streets. One rear yard shall be provided on each corner lot, and the owner shall designate the rear yard on his application for a zoning permit. For fences on corner lots in Riverbend, see 161-56. Nothing in this regulation shall be so interpreted as to reduce the building width of a

corner lot, facing an intersecting street and of record at the time of the passage of this chapter, to less than 24 feet.

- (4) Visibility at street corners. On a corner lot in any district where a front yard is required, no fence, wall, hedge, or other structure or planting more than three feet in height shall be erected, placed, or maintained so as to obstruct visibility of vehicular traffic within the triangular area formed by the intersecting street right-of-way lines and a straight line joining said lines at points 20 feet distant from the point of intersection, measured along said lines. No fence shall be placed within the road right-of-way.
- (5) Front yard exceptions. The front yard of all buildings and structures hereafter constructed within a residence district shall not be less than the average front yard of all buildings in the block for a distance of 300 feet on each side of such building. A vacant lot within the three-hundred-foot distance shall be considered as having the minimum front yard required in the district for the purpose of computing such average front yard.
- (6) Transition yard requirements.
 - (a) Where two districts abut the same street between two intersecting streets and the front yard requirements of one district are less than those of the other district, there shall be provided for buildings hereafter constructed or structurally altered within a distance of 50 feet from the district boundary line in the less-restricted district a front yard equal in depth to the average of the required depth in the two districts.
 - (b) Where the side or rear yard of a lot abuts a side or rear yard of a lot in a more-restricted district, there shall be provided along such abutting line or lines a side or rear yard equal in depth to that required in the more-restricted district.
- (7) Projecting architectural features, terraces, porches, and fire escapes.
 - (a) The space in any required yard shall be open and unobstructed except for the ordinary projections of windowsills, belt courses, cornices, eaves, and other architectural features; provided, however, that such features shall not project more than two feet into any required yard.
 - (b) A paved terrace shall not be considered as part of a building in the determination of yard sizes or lot coverage, provided that such terrace is unroofed and without walls, parapets or other forms of enclosure exceeding six feet in height.
 - (c) In determining the percentage of building coverage or the size of yards for the purpose of this chapter, enclosed porches or porches open at the side but roofed shall be considered a part of the building.
 - (d) An open fire escape may extend into any required yard by more than six feet,

provided that such fire escape shall not be closer than four feet, at any point, to any lot line.

(e) Unenclosed entrance steps or stairways providing access to the first story of a building may extend into any required yard a distance not to exceed six feet.

(8) Walls, fences, and hedges. The yard requirements of this chapter shall not prohibit any necessary retaining wall, nor any fence, wall or hedge permitted by town ordinance, provided that, in any residence district, such fence, wall or hedge shall be no closer to any front lot line than two feet and shall comply with visibility at street corners as provided in this article. Fences and hedges shall be a maximum height of six feet between buildings used as dwellings. **[Amended 8-6-1968; 7-7-1987]**

C. Additional height requirements.

(1) Chimneys, spires, etc. The height limitations of this chapter shall not apply to belfries, church spires, cupolas, penthouses, and domes which are not used for human occupancy; nor to chimneys, ventilators, skylights, water tanks and necessary mechanical appurtenances usually carried above the roof level; nor to barns, silos, monuments, transmission towers and cables, radio and television antennas or towers and similar structures. Such features, however, shall be erected only to such height as is necessary to accomplish the purpose for which they are intended. No advertising device of any kind whatsoever shall be inscribed upon or attached to that part of any chimney, tower, tank, or other structure which extends above the roof limitations.

(2) On through lots. On through lots 120 feet or less in depth, the height of a building may be measured from the grade of either street. On through lots more than 120 feet deep, the height regulations and basis of height measurement for the street permitting the greater height shall apply to a depth of not more than 120 feet from that street.

D. Accessory buildings: number, height, and location.

(1) Height. The maximum height of accessory buildings shall be one story or 15 feet, except for buildings used for agricultural purposes.

(2) Location.

(a) Unattached accessory buildings in residence districts. Accessory buildings which are not attached to a principal building may be erected within the rear yard, in accordance with the following requirements:

(1) Rear yard: five feet from side or rear line, except when abutting an alley, then 10

feet.

- (2) Side yard, street side of corner lot: same as for principal building.
- (3) Not closer to a principal building than 10 feet.
- (4) Attached accessory buildings in residence districts. When an accessory building is attached to the principal building, it shall comply, in all respects, with the requirements of this chapter applicable to the principal building.
- (5) Accessory buildings in business districts. Non-dwelling accessory buildings shall comply with front and side yard requirements for the principal building to which they are accessory.

§ 161-29.1 Greenspace requirements.
[Added 10-7-1997 by L.L. No. 7-1997]

The following are greenspace requirements for the districts indicated:

District	Percentage of Greenspace Calculated from Total Acreage
C-1 Commercial District	35%
C-2 Commercial District	35%
C-3 Commercial District	35%
M-1 Manufacturing District	35%
M-2 Manufacturing District	35%
Planned Development District – Commercial or Manufacturing	35%
Planned Development District – Residential	50%
Any Major Subdivision in a Commercial District	35%
Any Major Subdivision in the R Rural District	50% pursuant to Chapter 166, Article V

§ 161-30 Off-Street parking and loading.

A. Off-street parking.

- (1) Off-street parking space shall be required for all buildings constructed or new uses established after the effective date hereof. Each off-street space shall consist of at least 162 square feet with a minimum width of nine feet. In addition, space necessary for aisles, maneuvering and drives shall be provided. Parking requirements are specified in Subsection D, Off-Street Parking Schedule. For uses not specified, the Planning Board shall establish parking requirements in specific cases, to meet 85% of peak parking demand. The number of off-street parking spaces provided should be the minimum

necessary to adequately serve the intended use.

- (2) For any building having more than one use, parking spaces shall be required as provided for each use. Further, the Planning Board is authorized to accept shared parking spaces where the applicant has a signed agreement with another parking lot to cover a portion of parking requirements. Shared parking lots shall be within 300' of each other in order to be counted.
- (3) Parking spaces required in residence districts shall be located in the side or rear yard on the same lot or tract as the principal use. For parking lots in commercial districts, the following standards shall be incorporated into the design for new commercial uses, unless waived by the Planning Board:
 - (a) All parking shall be placed to the side or rear of the principal building to the maximum extent feasible. Where side or rear placement is not feasible due to lot configuration, parking lots may be placed to the front of a structure provided that they shall be screened and landscaped to minimize direct views of parked vehicles from streets. However, screening shall not impede sight distances for vehicles and pedestrians. Screening of parking lots pre-existing prior to the adoption of this zoning law and associated with existing commercial or public uses is not required.
 - (b) The interior of all new parking lots shall be landscaped to provide shade and visual relief through the use of planting islands or peninsulas. Parking lots with ten or less spaces may not require interior landscaping if the Planning Board determines that there is adequate perimeter landscaping.
 - (c) Parking lot layout shall take into consideration pedestrian circulation. Where necessary and appropriate, crosswalks shall be provided for and be distinguished by textured paving or other markings and integrated into the larger pedestrian network.
 - (d) Where feasible, use of permeable surfaces in parking lots are preferred.
 - (e) In any commercial district, a minimum of one bicycle rack designed to contain at least 4 bicycles shall be provided for every ten vehicular parking spaces.
 - (f) Cross-easements between two commercial parcels should be used to provide opportunities for shared access to parking to the maximum extent practical.
 - (g) All parking lots shall be designed to meet all requirements of the American with Disabilities Act (ADA).
- (4) Floor areas, for the purposes of computing parking requirements, shall be the sum of the

horizontal area within exterior walls of the several floors of a building, excluding basement, cellar and attic areas used primarily for storage or service.

B. Off-street loading.

(1) When necessary for the proposed commercial use, at least one off-street loading facility shall be provided for each commercial or industrial establishment hereafter erected or substantially altered. Space for off-street loading shall be in addition to space for off-street parking.

(2) Each facility shall be subject to the following minimum requirements:

(a) Each berth shall be not less than 12 feet wide, 33 feet long and 14 feet in height when covered.

(b) Space for such berth may occupy any part of any required side or rear yard, except that no such berth shall be located closer than 100 feet to any lot in any residence district unless wholly within a completely enclosed building.

C. Residence districts. Off-street parking facilities, as covered in Subsection **A** of this section and in Subsection **D**, Off-Street Parking Schedule, shall apply to the uses permitted under § **161-11B** but not to the uses permitted under § **161-11A**.

D. Off-Street Parking Schedule. In addition to the following minimum spaces all ADA requirements shall also be met.

Use	Spaces Required
Dwellings	2 for each dwelling unit
Residential Unit in Mixed Use Structure	1.25 for each dwelling unit
Rooming houses, tourist homes, motels, hotels	1 for each guest room plus 1 per 400 sf of public meeting area or restaurant space
Administrative, professional, eleemosynary, governmental or utility offices	1 for each 600 square feet of floor space
Funeral homes	10, plus space for all employee and resident personnel cars
Physicians' or surgeons' offices	4 for each physician or surgeon who maintains an office in the building
Churches or temples	1 for each 5 seating spaces in main assembly room
Schools	2 for each elementary classroom
Theaters or other places of assembly	1 for each 5 seating spaces

Use	Spaces Required
Hospitals, sanatoriums, nursing or convalescent homes	1 for each 4 beds
Retail stores or banks	1 for each 400 square feet of floor area
Clubs, lodges and restaurants	1 for each 50 square feet of floor area
Bowling alleys	5 for each alley
Wholesale, storage, freight terminal or utility uses	1 for each 1,000 square feet of floor area
Industrial or manufacturing uses	1 for each 2 employees on the maximum working shift
Home occupations, Major	1 for each 100 square feet of floor area devoted to such use
Multi-family dwellings	2 for each dwelling unit in the building; provided, however, that no front yard shall be used for the open-air parking or storage of any motor vehicle
Office buildings	1 for each 300 square feet of office floor area

§ 161-31 Signs.

Signs that are included as an element in a site plan review or special use permit application shall be reviewed by the Planning Board at the same time as all other elements reviewed during the site plan or special use process. If a proposed sign is not part of a site plan review or special permit application, such sign shall be reviewed and permitted with a sign permit by the Building Inspector. The size, type and location of any sign or advertising device shall be in accordance with the following regulations:

A. Signs in R Residence Districts.

(1) The following signs shall be permitted in R Residence Districts:

- (a) Nameplate, identification signs and professional signs on any premises used for any of the uses permitted in a residence district, provided that such signs shall not exceed four square feet in area and shall not emit any flashing or intermittent illumination.
- (b) Institutional signs for schools, churches, hospitals or similar public or semipublic institutions, provided that such signs shall not be greater than 15 square feet in area and shall not emit any flashing lights or letters, scrolling or changing graphics, or intermittent illumination including lights from electronic signs or LED style signs.
- (c) Business signs pertaining only to a legal nonconforming use of the premises on which it is located, provided that such signs shall not exceed 20 square feet in area and shall not emit any flashing lights or letters, scrolling or changing graphics, or intermittent illumination including lights electronic signs or LED style signs. Such signs shall be

ground mounted only and with a maximum height of eight feet. Freestanding pole signs shall not be permitted.

- (d) Temporary signs located on the premises on which they are located, provided that such signs shall not exceed six square feet in area, shall not be illuminated and shall be promptly removed by the property owner when the circumstances leading to their erection no longer apply.

B. Signs in C Commercial Districts.

- (1) The following signs shall be permitted in C Commercial Districts:

- (a) Signs permitted in R Residence Districts.

- (b) Business signs on the premises on which they are located. Two signs per business shall be allowed with one building mounted and one freestanding or ground-mounted. For premises having more than one business located within the structure, each business shall be allowed one building mounted sign having a maximum size of 12 square feet and the premises shall be allowed one free standing or ground mounted sign with a maximum size of 24 square feet. The maximum height for a freestanding sign or a ground mounted sign shall be 10 feet. (c) Temporary signs on the premises on which they are located, provided that such signs shall not exceed 10 square feet in area and shall be promptly removed by the agent or owner when the circumstances leading to their erection no longer apply.

- (2) Signs not pertaining to the premises on which they are located shall not be permitted in any C Commercial District.

C. Signs in M Manufacturing Districts. The following signs shall be permitted in M Manufacturing Districts:

- (1) Signs permitted in C Commercial Districts.

- (2) No off-premises signs shall be allowed.

- (3) Signs size shall be limited to 36 square feet in total sign per face.

- (4) Temporary signs on the premises on which they are located, provided that such signs shall not exceed 100 square feet in area and shall be promptly removed by the agent or owner when the circumstances leading to their erection no longer apply.

D. General regulations.

- (1) The number of signs permitted on any single parcel shall not exceed the number of lot lines of said parcel which abut a public right-of-way.
- (2) Signs shall be constructed of durable materials and shall be maintained in a good condition. Signs which are permitted to deteriorate shall be removed upon direction of the Town Board following notification to the owner.
- (3) No sign shall project more than four feet beyond property lines over public sidewalk areas.
- (4) No sign shall be erected which, in the opinion of the Planning Board, may cause hazardous or unsafe conditions. Such signs shall be removed upon direction of the Building Inspector following notification to the owner.
- (5) No building mounted sign shall be located higher than the front façade to which it is attached.
- (6) No sign, other than an official traffic sign, shall be erected within the right-of-way of any public street.
- (7) No sign shall have a source of illumination directed toward a public street or adjacent property. LED signs shall be allowed only in C and M districts but where allowed, shall not include use of flashing, moving, or changing color text. Externally lighted signs are preferred.
- (8) No off-premises signs shall be allowed. No sign shall be permitted which faces the front or side lot line of any residential district within 100 feet of such lot line or which visibly faces any public parkway, public square or entrance to any public park, school, library, church, or similar institution within 300 feet thereof or within 1,000 feet of any federal, state, county, or town existing or proposed limited access highway.

E. Signs Exempt from Sign Regulations:

- (1) Signs one square foot or less in area
- (2) Flags and insignia of any government.
- (3) Flags depicting the 'open' or 'closed' status of a business.
- (4) Legal notices, identification, informational or directional signs erected or required by

governmental bodies.

- (5) On-premises signs directing and guiding traffic and parking on private property.
- (6) Signs which mark property boundaries, trespassing signs, or warning or hazard signs (2 sf per side).
- (7) Temporary signs for a maximum 12 square feet per side and located on-premises, placed for no more than 30 days. Temporary signs erected by and for municipal uses may be allowed to be in place for more than 30 days.

§ 161-32 Large-scale planned development districts.

- A. The regulations for large-scale planned districts are intended to provide a means for the development of entirely new residential, commercial or industrial subdivisions, parks or estates in which certain economies of scale or creative architectural or planning concepts may be utilized by the developer without departing from the spirit and intent of the Zoning Law. In no case shall the regulations of this section be so interpreted as to circumvent the benefits of this chapter to the residents or occupants of such development or the residents or occupants of adjoining properties. Large-scale planned districts as defined herein may be established only in accordance with the procedure specified in this section.
- B. Objectives. In order to carry out the intent of this Section, a Large-Scale Planned Development District shall achieve the following objectives:
 - (1) A creative use of land and related physical development which is consistent with the Town of Waterford Comprehensive Plan.
 - (2) A development pattern that has design, aesthetic qualities, scale, and density that is consistent with the character of Waterford.
 - (3) A development pattern that is in harmony with adjacent or nearby uses.
 - (4) A density of development that does not adversely impacts traffic conditions on local roads and highways.
 - (5) The preservation of environmental features, especially those related to the rivers, canals, and waterfront areas.
 - (6) A development that provides a maximum choice in the types of environment, occupancy tenure (for example, cooperatives, individual ownership, condominium, or leasing), types of housing, lot sizes, and community facilities available to existing and potential Town residents at all economic levels.

(7) More suitable open space and recreation areas. Large-scale planned districts shall be considered as a single parcel for the purpose of applying the regulations for yard dimensions as specified in Article III. Individual buildings and structures within such district need not conform to the regulations of Article III, provided that any variation from such regulations shall not be contrary to the intent of this chapter and shall conform to the standards set forth in Subsection B hereof. The requirements for off-street parking, loading and unloading, screening and other transitional measures shall be as specified in this chapter. Such requirements are minimum specifications and may be more restrictive in accordance with the standards set forth in the following subsection.

C. A large-scale planned development shall require the following minimum amount of net acres:

(1) Commercial use: 3 net acres.

(2) Industrial use: 10 net acres.

(3) Residential use: 10 net acres.

(4) Net acres is defined as the total parcel acreage minus all acreage located within the parcel involving features (a) through (i) as follows:

(a) Existing streets.

(b) Easements.

(c) Parks.

(d) Other dedicated lands or water areas.

(e) Lands undevelopable by reason of topography (slopes/15%).

(f) Drainage (including lands used for drainage ditches, swales, and other storage areas).

(g) Floodplains (including the FIRM mapped Floodway, 100-Year and 500-Year Flood Hazard Areas).

(h) Wetlands (Federal NWI and State).

(i) Areas with adverse subsoil conditions (including those soils that have high erosion potential).

D. Application for establishment of a planned development district shall be made in writing to the Town Board. The application shall include seven copies of a sketch plan and narrative and a completed Full Environmental Assessment Form, Part I. The Town Board shall refer the application to the Town Planning Board within 30 days of the date of application if it determines that the application has merit for further review. The sketch plan shall be to scale and shall delineate the parcel(s) to be developed. In addition, the sketch plan shall include:

(1) Topography.

- (2) Land use areas, approximate building locations, easements, natural features to be preserved, data concerning the number and type of residential units or commercial buildings proposed and the amount (in area) of any other uses to be built.
- (3) Proposed traffic circulation, including existing public roads to be used, on-site circulation and/or approximate parking and loading.
- (4) Schematic of proposed landscape and open space plan.
- (5) Sketches of typical structures proposed including signage.
- (6) Concept plan or narrative describing the proposed public utilities including water supply, wastewater disposal and storm drainage facilities to be constructed.
- (7) The Planning Board may require that the applicant submit for review a traffic impact analysis to indicate the trip generations from the project and any potential impacts that may occur on the surrounding road network. A traffic impact analysis shall be required whenever 100 or more cars per day are proposed to be associated with the development proposal. The analysis should discuss any possible mitigation measures that may be required. Upon review of the impact analysis, the Planning Board may require that a traffic impact study be performed with the scope of the report to be determined by the Planning Board and its engineering consultant.
- (8) Project narrative. A narrative description of the proposed project is required, addressing its scope of operation, purpose, justification, and impact on the immediate area of influence and the town in general (school, traffic generation, population, utilities aesthetics and land use compatibility) and including necessary information so that the Planning Board can adequately evaluate the considerations detailed in (5) (a) of this sub-part.
- (9) The Planning Board shall review the sketch plan with the applicant and may require additional changes to the sketch plan as are deemed reasonably necessary to protect the established or permitted uses in the vicinity and to promote the orderly growth and sound development of the town pursuant to this Article. The Planning Board shall initiate a coordinated review as per SEQR Part 617, and unless such coordinated review identifies another non-town agency interested in being lead agency, shall take on the lead agency role for the purposes of SEQR. The Planning Board shall require the applicant to furnish basic site data pertaining to the boundaries of the proposed planned development, existing zoning, the topography and subsoil conditions and such preliminary plans as may be required for an understanding of the proposed development, with the petitions for the desired zoning changes.

- E. The Planning Board may require such changes in said preliminary plans as are found to be necessary to meet the requirements of this chapter. The Board may make such additional requirements as are deemed reasonably necessary to protect the established or permitted uses in the vicinity, protect the environment, and to promote and protect the orderly growth and sound development of the municipality. In reaching its decision on the proposed development and changes, if any, in the preliminary plans, the Planning Board shall consider, among other things, the following:
- (1) The need for the proposed land use in the proposed location.
 - (2) The existing character of the neighborhood in which the use would be located.
 - (3) The location of principal and accessory buildings on the site in relation to one another.
 - (4) The pedestrian circulation and open space in relation to structures. Sidewalks, and/or trails shall be required to connect within the development. The Planning Board or Town Board may require trails or sidewalks to be constructed to adequately link the developed area with other areas adjacent to the parcel.
 - (5) The traffic circulation features within the site and the amount, location and access to automobile parking areas.
 - (6) The height and bulk of buildings and their relation to other structures in the vicinity.
 - (7) The proposed location, type and size of display signs, driveways, loading zones and landscaping.
 - (8) The safeguards provided to minimize possible detrimental effects of the proposed use on the environment, community character, adjacent properties and the neighborhood in general.
 - (9) The compatibility with the Town's Comprehensive Plan, and LWRP, if applicable.
 - (10) The capacity of public infrastructure including but not limited to roads, water, and sewer to ensure adequate facilities are or can be provided for the number of units or square footage proposed.
- F. In coordination with the Town Board and any other involved agencies identified through the SEQR process, the Planning Board shall make a SEQR determination prior to making a full recommendation to the Town Board. The Planning Board shall recommend, recommend with modifications or not recommend such application and shall report its findings to the Town Board within 60 days following the date of referral to the Planning Board. The report

shall include findings related to the adequacy of the proposal and consistency with Town policy. The time frame may be extended by mutual agreement between the Planning Board and the applicant.

- G. The Town Board shall hold a public hearing on the proposal with public notice, as provided by law as in the case of an amendment to this chapter. All requirements for SEQR Part 617, and General Municipal Law 239-m and n shall be met prior to final decision by the Town Board to approve the large-scale planned district.
- H. The Town Board may then amend this chapter in order to approve this re-zoning so as to define the boundaries of the planned district. Such action shall have effect only of granting permission for development of the specific proposed use in accordance with the preliminary plans filed with the Town Board. The Town Board shall identify each allowed use within the development and determine whether it is a permitted or a special use permitted use, any density or other dimensions required, and any other conditions it feels necessary to ensure the objectives of the Town are met. Upon approval by the Town Board, the applicant shall submit plans as required for site plan or special use permit **approval** as may be required in accordance with Town Code requirements. Such approved planned districts shall be designated Residential Planned District (R-P), Commercial Planned District (C-P) or Manufacturing Planned District (M-P) according to the type of development. Such amendment of this chapter shall not constitute or imply a permit for construction or approval of construction plans.
- I. In the event that the Planning Board has not recommended such proposal, or recommended with modifications which the applicant is unwilling to make, an affirmative vote of not less than 2/3 of the members of the Town Board shall be required to establish such planned district.
- J. If construction work on the proposed development is not begun within time limits specified by the Town Board or if such work is not completed within the period of time specified by the Town Board, approval of the application shall become null and void, and all rights thereunder shall lapse, and the land shall be deemed subject to the same regulations and restrictions as were effective before such approval, unless the Town Board, for good cause, authorizes an extension of either period. Such extension may be authorized without a public hearing.
- K. All conditions imposed by the Town Board, including those the performance of which are conditions precedent to the issuance of any permit necessary for the development of any part of the entire site, shall run with the land and shall not lapse or be waived as a result of any subsequent change in the tenancy or ownership of any or all of said area. Such conditions shall be a part of any certificate of occupancy issued for any use or structure in

such development.

L. Use and area, height, and bulk regulations for large-scale planned districts.

(1) R-P Residential Planned Districts: The following uses shall be permitted, and the following regulations shall apply to any R-P Planned Residential District:

(a) One-family dwelling groups.

(1) Maximum number of dwelling units: five per net residential acre, with 8,000 square foot minimum lot size.

(2) Maximum height of structures: 2 1/2 stories.

(3) Impervious surfaces: 30% Maximum

(b) Two-family dwelling groups.

(1) Maximum number of dwelling units: 6 per net residential acre, two-story with 12,000 square foot minimum lot size.

(2) Maximum height of structures: 3 1/2 stories or 50 feet.

(3) Impervious surfaces: 30% Maximum

(c) Two-story multi-family dwelling groups.

(1) Maximum number of dwelling units: 8 per net residential acre.

(2) Maximum height of structures: 2 1/2 stories or 35 feet.

(3) Impervious surfaces: 30% Maximum

(d) Three-story multi-family dwelling groups.

(1) Maximum number of dwelling units: 12 per net residential acre.

(2) Maximum height of structures: 3 1/2 stories or 50 feet.

(e) Community recreation centers.

(1) Maximum height of structures: 3 1/2 stories or 50 feet.

(2)C-P Planned Commercial Districts. The following uses shall be permitted, and the following regulations shall apply to any C-P Planned Commercial District:

(a) Uses permitted in C-1 and C-2 Commercial Districts.

(1) Maximum structural coverage: 50% of net area.

(2) Maximum height of structures: 3 1/2 stories or 50 feet.

(3) Minimum side yard requirements for structures or structure groups.

(a) One: 10 feet.

(b) Both: 25 feet.

(4) Minimum rear yard requirements for structures or structure groups: 30 feet.

(3)M-P Planned Manufacturing Districts. The following uses shall be permitted, and the following regulations shall apply to any M-P Planned Manufacturing District:

(a) Laboratories; manufacturing, compounding, assembling or fabricating plants; warehouses or storage facilities; agricultural product packaging, processing or storage facilities; and business signs, none of which may become hazardous, noxious or offensive by reason of the emission of odor, dust, smoke, cinders, gas, fumes, noise, vibration, refuse matter or water-carried wastes or may cause a potentially hazardous, noxious or offensive condition.

(1) Minimum individual building site: two acres.

(2) Maximum structural coverage: 60% of net area.

(3) Maximum height of structures: 50 feet.

(4) Minimum side yard requirements for structures or structure groups.

(a) One: 20 feet.

(b) Both: 50 feet.

(5) Minimum rear yard requirements for structures or structure groups: 50 feet.

§ 161-33 **Farms; customary agricultural operations.**

A customary agricultural use shall have a minimum lot size of two acres for farming without any animals, or five acres for farming with animals. No agricultural use shall create a public nuisance or hazard due to use of chemicals, storage or use of manure, production of noise beyond the ambient noise levels, or excessive odors. Custody of poultry or livestock for personal or farm use, except as household pets, shall have a minimum lot size of five acres and be approved by the Planning Board upon the filing of application for a special permit with said Board. The basis on which the Board shall grant such a permit shall be that such use shall not constitute a public or private nuisance.

- A. Whenever a customary agricultural use includes animals, a 100' buffer shall be placed between the animals and any property line and from any stream bank.
- B. All animals shall be enclosed with fencing.
- C. On-site farm stands or other direct sales of agricultural products shall require a special use permit from the Planning Board, Farm stands shall be set back at least 20 feet from any public right of way. Any signs shall conform to the provisions set forth in 161-31. Adequate off-street parking shall be provided for pursuant to 161-30.

§ 161-34 **District reclassifications.**

- A. It is one of the intentions of this Zoning Law and Map to safeguard the citizens of Waterford from undue health and sanitation hazards. For this reason, the boundaries between the R-75 and R-100 Residence Districts were determined primarily by the location of sewer lines on the date of establishment of this chapter. The smaller minimum frontage dimension (R-75) in most, but not necessarily all, cases represents those areas where sewer lines were previously installed.
- B. Where it can be shown that adequate facilities exist, or will exist prior to the subdivision of land, for the adequate collection, treatment and disposal of sewage in areas presently zoned R-100, petitions will be favorably received by the Town Board for the reclassification of such sewer serviced areas to R-75 Residence Districts, except where there is intended frontage upon state and county highways. Lands contiguous with state and county highways and serviced by adequate sewers may be reclassified R-75 by the Town Board where access is to a street other than said state or county highways. In such cases, lot depths on the side facing the county or state highways shall be at least 40 feet.
- C. Reclassification of areas from an R-100 to an R-75 District shall follow the standard amendment procedure of Article VIII of this chapter.

§ 161-34.1 **Commercial Design Standards**

- A. Applicability. These standards shall be applied to all permitted or specially permitted commercial uses as permitted including those requiring site plan review as per Table 1, in all commercial districts except for home occupations and farms. These standards are in addition to all others required by this Chapter 161.

- B. Standards
 - (1) Sidewalks. Sidewalks shall be provided to connect buildings to one another, to parking areas, and to public streets and other sidewalks. Pedestrian exits from all parking lots shall also be linked to the sidewalk.
 - (a) Sidewalks shall be separated from vehicular traffic lanes by individual planters, planted strips, or curbs.
 - (b) Pervious surfaces for sidewalks are preferred.

 - (2) Street Trees, Screening and Landscaping.
 - (a) Landscaping shall be provided for in accordance with a landscaping plan approved by the Planning Board. Plant species selected should be hardy for the climate in Waterford and preferably native species. Street trees shall be planted within planters or strips using a single or alternating species aligned every 30' on center. Any dead or dying tree shall be replaced by the applicant within two years from the time of planting.
 - (b) Detention basins, headwalls, outlet structures, flow channels and other drainage improvements shall be screened with plant materials and/or berms. In cases where these features are not architecturally compatible, fencing can be used to screen the feature from the street or adjacent properties provided they are fully screened with vegetation or a decorative fence style that is compatible with the character of the neighborhood.
 - (c) Maximum effort should be made to save existing, mature vegetation that is on-site.

 - (3) Lighting.
 - (a) Lighting poles shall be post style, with a maximum height of 18'.
 - (b) In general, lighting poles shall be spaced at no greater than 80 feet on center.
 - (c) All luminaires shall be full-cut off fixtures and shielded to direct light downwards.
 - (d) Traditional fixtures instead of shoe-box style fixtures are preferred. Lighting fixtures attached to the exterior of a building shall be architecturally compatible with the style, materials, colors, and details of the building.
 - (e) Non-color corrected low-pressure sodium and mercury vapor light sources are prohibited.
 - (f) The Planning Board may require a lighting plan to illustrate light levels at property lines as part of the site plan or special use review process.

 - (4) Building and Lot Layout.
 - (a) One principal building is allowed along the road frontage.
 - (b) One accessory building per lot is allowed, it shall be placed to the rear or side of the principal building and set back at least at the required building setback.

- (c) Front setbacks may be allowed by the Planning Board to match that of existing, adjacent principal building setbacks if such change increases consistency with neighborhood character. All other setbacks shall conform to the dimension requirements of Table 2.
 - (d) All dumpster or trash receptacles shall be placed to the rear of a principal structure, or if lot configuration is such that rear access is not feasible, in the side yard provided it is set back the farthest possible distance from the frontage.
 - (e) All facades shall be parallel to the street line.
 - (f) Two-way vehicular entrances to parking lots, garages, and parking structures shall be no wider than 24 feet at the frontage. One-way entrances shall be no wider than 12 feet at the frontage.
 - (g) Major modifications to the existing landscape, such as extensive grading, clear-cutting of mature trees or other similar activities, should be avoided to the extent possible.
 - (h) Low impact development (LID) for stormwater management shall be incorporated and shall use the New York State Stormwater Management Design Manual, and in particular, Chapter 5 (Green Infrastructure Practices), Section 5.1 (Planning for Green Infrastructure: Preservation of Natural Features and Conservation Design).
- (5) Building Design. Buildings shall generally relate in scale and design features to the local context of the surrounding buildings, and larger district area.
- (a) There shall be no blank and windowless walls along any street frontage. The architectural treatment of the front façade shall be continued, in its major features, around all visibly exposed sides of a building. On side elevations, blank wall or service areas that are visible from the public viewshed are not allowed.
 - (b) No single building shall have a building footprint exceeding 20,000 square feet. All buildings having facades longer than 80 feet shall be articulated to appear as multiple buildings or with offsets, each part of which does not exceed a maximum building footprint of 80 feet. Building wall offsets, including projections, recesses, and changes in floor level shall be used in order to add architectural interest and variety, and to relieve the visual effect of a long wall. Roof-line offsets shall be provided in order to add architectural interest and variety the massing of a building and to relieve the effect of a single, long roof.
 - (c) Buildings shall be located to front towards and relate to public streets, both functionally and visually to the greatest extent feasible. Where the street frontage is not the functional front of the structure, windows and building accessories on the structure shall be required to make it appear visually as the front.
 - (d) Where a mix of residential and commercial uses is allowed in one structure, residential uses shall be placed to the rear or upstairs of the commercial use. All ground floor spaces facing the frontage shall be the commercial use.
 - (e) Gable roofs with a minimum pitch of 9/12 and hipped roofs of 6/12 shall be used to the greatest extent possible. Dead-flat roofs are generally inconsistent with the existing character of the Town and should be avoided. Where the size or type of the

building requires a flat roof, other architectural features shall be used to screen or disguise the flatness of the roof.

- (f) All HVAC, stacks, pipes, and other utility structures shall be thoroughly screened from view from the street and from adjacent properties.
- (g) Where drive through facilities are allowed, they shall be located at the side or rear of buildings and landscaping should be used to reduce the visibility of such facilities.
- (h) LEED (Leadership in Energy and Environmental Design) standards, or an equivalent standard (or such others as may succeed them), are encouraged to be incorporated into the building design.
- (i) Solar panels are permitted uses when placed on roofs in any Commercial District.
- (j) There shall be no nuisance noise generated that extends beyond the ambient noise levels found pre-development at the property lines. All requirements of Chapter 106 of the Town of Waterford Code (Noise) shall also be met.

§ 161-34.2 Senior Housing

- A. Certain related ancillary facilities may be permitted, either in a separate building or in combination with structures containing senior dwelling units. Such ancillary facilities shall be subordinate to the residential character of the development. The following facilities may be included as an integral part of a senior housing development:
 - (1) Cafeteria/commercial kitchen.
 - (2) Self-service laundry.
 - (3) Lounge.
 - (4) Game room.
 - (5) Recreation room.
 - (6) Exercise or multipurpose room.
 - (7) Workshop.
 - (8) Library.
 - (9) Sauna/spa
 - (10) Medical clinic.
 - (11) Social services office
 - (12) Twenty-four-hour security
 - (13) Guest accommodations.
- B. Senior housing units may include single, two-family, townhouses, multi-family or congregate housing, or any combination of these.
- C. The design of the senior housing shall to the maximum extent practical emulate the rooflines, windows and doors, facades, and other features similar to single-family dwellings and with the design of the surrounding neighborhood.
- D. Design shall emphasize pedestrian circulation and shall provide a safe system of drives and parking conveniently accessible to all occupants. Sidewalks shall be provided to link parking lots, buildings, and existing sidewalks. All ADA requirements for parking and sidewalk construction shall be met.

§ 161-34.3 Bed and Breakfast Inn. A bed and breakfast facility may be within an owner-occupied single-family dwelling subject to applicable special permit and site plan approvals and compliance with the following standards:

- A. Each bed-and-breakfast establishment shall be designed, maintained and operated so as to preserve and complement the residential appearance of the site and the existing character of the surrounding area.
- B. A resident host of the property shall live on the site throughout the visitors' stay and supervise guests so as not to disrupt the neighborhood.
- C. The guest rooms shall be limited to the principal dwelling.
- D. No guest shall stay for a period of time in excess of 30 days.
- E. The owner shall collect and preserve registration records for a minimum of three years.
- F. A public dining room, restaurant, bar, or other commercial use is prohibited in a bed and breakfast except for the serving of breakfast to guests.
- G. Off-street parking shall be available and located to the side or rear of principal structure outside of any required yard setback and shall be consistent with the residential character of the site. Parking shall be consistent with §161-30.
- H. One identification sign is permitted, not to exceed four square feet in area and five feet in height and shall be otherwise in compliance with §161-31.
- I. The owner shall give reasonable access for inspections to be conducted to ensure compliance with the provisions of this chapter and the New York State Building Code.
- J. No sleeping rooms for guest use shall be located above the second story. A fire safety notice shall be affixed to the occupied side of the entrance door of each bedroom for guest use indicating means of egress and evacuation procedures to be followed in the event of a fire or smoke condition or upon activation of a fire or smoke-detecting alarm device. All means of egress shall meet requirements of the Building Code. Smoke-detecting alarms, installed in conformity with Building Code, shall be provided outside each separate sleeping area, in each sleeping space and on each floor level.

§ 161-34.4 Solar Facilities

A. Permitting and Review Process

- (1) Required Approvals. Solar panels that are rooftop or ground-mounted, for use by an individual residential dwelling or commercial building, and with a rated capacity of 25kW or less that generate electricity primarily for on-site consumption shall be permitted within the Town of Waterford subject to the issuance of a Unified Solar Permit granted by the Town’s Building Inspector. Such systems shall be subject to any additional requirements in this local law for such systems.
- (2) Solar farms, as defined in this local law and with a rated capacity of 5 MW or less that generates electricity primarily for off-site consumption shall be permitted in the R-Rural District only upon approval of a special use permit by the Planning Board.
- (3) Any review by the Town of Waterford Planning Board shall include review pursuant to the State Environmental Quality Review Act ECL Article 8 and its implementing regulations at 6 NY 617 (SEQR).

B. General Standards for Solar Energy Systems. The following standards shall apply to all solar panels permitted in the Town of Waterford.

- (1) All solar panels shall be designed, erected, and installed in accordance with all applicable codes, regulations and industry standards as referenced in the New York State Uniform Fire Prevention and Building Code (the "State Code"), the New York State Energy Conservation Code (“Energy Code”), as well as those that may be required by Public Service Commission regulations.
- (2) All solar panels shall be placed and arranged such that reflected solar radiation or glare shall not be directed onto adjacent properties or public roadways. To the extent practicable, solar panels shall have a non-reflective finish and neutral paint colors, materials, and textures to achieve visual harmony with the surrounding area.
- (3) Any on-site power lines connecting with solar panels shall, to the maximum extent practicable, be underground installations.
- (4) The location, size and intensity of the proposed solar facility shall be in harmony with the orderly development of the district. The character and appearance of the proposed project shall be in general harmony with the character and appearance of the surrounding neighborhood.
- (5) Nothing in this Section shall be deemed to allow any applicant the right to remove any trees, vegetation, or other obstruction located on any real property over which said applicant does not have fee title.

C. Rooftop Solar Panels

- (1) Rooftop installations shall incorporate, when practicable, the following design requirements:
 - (a) Solar panels on pitched roofs shall be mounted with a maximum distance of eight inches between the roof surface and the highest edge of the system.
 - (b) Solar panels on pitched roofs shall be installed parallel to the roof surface on which they are mounted or attached.
 - (c) Solar panels on pitched roofs shall not extend higher than the highest point of the roof surface on which they are mounted or attached.
 - (d) Solar panels on flat roofs shall not extend above the top of the surrounding parapet, or more than 24 inches above the flat surface of the roof, whichever is higher.
- (2) Rooftop solar panels shall be designed according to New York State Building Code to withstand heavy snow loads. Appropriate access points required to maintain the solar panels and solar equipment in proper working order shall be incorporated in all plans for installations of rooftop solar panels.
- (3) Rooftop systems shall be designed at the scale required to generate power for the reasonably projected on-site consumption by owners, lessees, tenants, residents, or other occupants of the parcel on which they are erected.

D. Ground-Mounted Panels

- (1) A parcel must have a minimum area of one acre in order for a ground- system to be permitted.
- (2) The location of the ground-mounted system shall be at least 20 feet from any property line.
- (3) No ground-mounted system shall be permitted between the principal building on the parcel and the fronting street or roadway.
- (4) The maximum height of the top edge of any solar panel shall be 15 feet above ground level when the panel is oriented at a maximum vertical tilt.
- (5) Ground-mounted systems shall be screened from adjoining residential parcels and public rights-of-way through the use of architectural features, earth berms, landscaping consisting of a naturally appearing blend of deciduous and coniferous species, fencing or other features which will harmonize with the character of the property and surrounding area.
- (6) Ground-mounted systems shall be located in a manner to reasonably minimize view blockage for surrounding properties and shading of property to the north, while still providing adequate solar access.

- (7) Ground-mounted systems and their associated support elements shall, at the time of installation, be designed according to New York State Building Code to withstand snow loads and wind pressures applied to exposed areas by snow or wind from any direction, to minimize the migration of light or sound from the installation and to minimize the development of sight obstructions for adjacent structures or land parcels.

E. Solar farms

(1) General Requirements

- (a) The parcel on which the solar farm is sited shall be a minimum of 3 acres.
- (b) Solar farms shall be set back at least 300 feet from all property lines. No component of any solar farm may be located within 150 feet of any roadway, other than a private service road used solely for access to the site of such energy system.
- (c) No more than fifty (50%) percent of the parcel shall be occupied by the entirety of the solar farm.

(2) Siting Considerations

- (a). It is a goal of the Town of Waterford to protect and preserve natural features. Certain locations shall be considered more favorable than other locations in siting solar farms. Solar farms shall be located in such a manner as to avoid, to the maximum extent feasible, sensitive environmental locations such as wetlands, wetland buffers, streams and canals, steep slopes > 15%.
- (b) Development and operation of the system shall not have a significant adverse impact on fish, wildlife or plant species or their critical habitats or other significant habitats identified by the Town of Waterford or other federal or state regulatory agencies.

(3) Review by the Planning Board shall include, but not be limited to:

- (a) Consideration of the requirements of this section;
- (b) Protection of the scenic values, neighborhood character, visual qualities of Waterford's landscape and historic character;
- (c) The applicant shall also coordinate with local emergency responders during Planning Board review to clarify on-site safety procedures and shall receive written correspondence from the responding fire department and emergency care provider as to the acceptability of the proposed ingress to and egress from the site.

(4) Application. In addition to requirements of Article XIII of the Town of Waterford Zoning Law, all applications to the Planning Board for a special use permit shall also include:

- (a) Plans and drawings of the solar farm installation signed by a professional engineer registered in New York State showing the proposed layout of the entire solar farm along with a description of all components, whether on site or off site, existing vegetation, and proposed clearing and grading of all sites involved. Property lines and physical features, such as roads, shall be included on all plans and drawings.

- (b) An electrical diagram detailing the solar farm installation, associated components and electrical interconnection methods, with all National Electrical Code compliant disconnects and over-current devices identified.
- (c) All existing and proposed access to the site, including road, electric power, emergency access, land-based telephone line connection, and other utilities existing and proposed within the property boundaries of the proposed location. Existing roadways shall be used for access to the site whenever possible and determined acceptable by the Planning Board.
- (d) A preliminary equipment specification sheet that documents all proposed solar panels, significant components, mounting systems, and inverters that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of building permit.
- (e) A landscape plan showing all existing natural land features, trees, forest cover, and all proposed changes to these features, including size and type of plant materials. The plan shall show any trees and/or vegetation which is proposed to be removed for purposes of providing greater solar access.
- (f) A property operation and maintenance plan that describes the continuing photovoltaic maintenance and property upkeep, such as mowing and trimming.
- (g) A stormwater pollution prevention plan per New York State Department of Environmental Conservation and Town of Waterford requirements to detail stormwater runoff management and erosion control plans for the site.
- (h) The Planning Board may require photo simulations showing the proposed solar farm in relation to the building/site along the elevation views and dimensions and manufacturer's specs and photos of the proposed solar farm, solar collectors, and all other components. Additional simulations may be required that include neighboring properties.
- (i) Details of the proposed noise that may be generated by inverter fans. The Planning Board may require a noise analysis to determine potential adverse noise impacts.
- (j) Part I of the full environmental assessment form (FEAF).
- (k) Proof of insurance. The applicant and the owners of the property where the solar farm is to be located shall file with the Building Department proof of insurance in a sufficient dollar amount to cover potential personal and property damage associated with construction and operation thereof as determined by the Planning Board.
- (l) Plan for post-construction maintenance of grounds and structures and roadways. Such plan shall describe continuing photovoltaic maintenance and property upkeep, such as mowing and trimming. Chemical control of vegetation shall be minimized.
- (m) Name, address, and contact information of proposed or potential system installer and the owner and/or operator of the solar farm. Such information of the final system installer shall be submitted prior to the issuance of a building permit.
- (n) Name, address, phone number, and signature of the project applicant, as well as all the property owners, demonstrating their consent to the application and the use of the property for the solar farm.

- (o) If the property of the proposed project is to be leased, legal consent between all parties, specifying use(s) of the land for the duration of the project, including easement, decommissioning, and other arrangements shall be submitted.
- (p) A decommissioning plan. In addition, the Planning Board may require the posting of a removal bond to be held in escrow to provide for the decommissioning of the solar farm.

(5) Specific Design Standards

(a) Visual.

- (1) Accessory buildings and structures associated with solar farms shall, to the maximum extent practicable, use materials, colors and textures that will blend the facility into the existing environment.
- (2) Any associated structure such as but not limited to storage batteries and fences shall be screened, placed underground, depressed, surrounded by an earthen berm, or sited below a higher topographic grade or the ridge line, particularly in areas of high visibility and along road frontages.
- (3) Any solar farm located within one mile of an existing solar farm shall be reviewed with the additional consideration of the cumulative impacts.

(b) Fencing.

- (1) Solar farms shall be enclosed by perimeter fencing, with locking access gate, to prevent unauthorized access and vandalism to the solar farm. The Planning Board may require fencing to accommodate passage of small mammals.
- (2) The fence shall be a minimum of seven (7) feet in height. The height of the fence may be adjusted by the Planning Board considering visual impact upon neighboring properties.
- (3) The type, material and color of perimeter fencing shall be subject to approval by the Planning Board.
- (4) The perimeter fencing shall also be set back a minimum of 100 feet from the front property line and 250 feet from any other property line.
- (5) There shall be created and maintained between the fence and the components, structures, or fixtures of the solar farm, a clear and unobstructed buffer area at least 25 feet in width encircling the entire perimeter of the facility, with a surface and grade suitable for the safe passage of fire trucks and other emergency vehicles.
- (6) The fence shall be further screened by landscaping needed to avoid adverse aesthetic impacts.

(c) Glare. All solar farms and related equipment shall be surfaced, designed, and sited so as not to reflect glare onto adjacent properties and roadways.

(d) Lighting.

- (1) A lighting plan shall be required for all solar farms.
- (2) The lighting shall be designed to ensure that the solar farms is dark-skies compliant.

- (3) Artificial lighting of solar farms shall be limited to lighting required for safety and operational purposes and shall be shielded from all neighboring properties and public roads.
- (e) Warning Signage.
 - (1) Manufacturer and/or installer's identification and appropriate warning signage and 24-hour emergency contact information shall be posted at the site and clearly visible.
 - (2) Solar energy equipment shall be marked with weather resistant marking to provide emergency responders with appropriate warning and guidance with respect to isolating the solar electric system.
 - (3) The marking shall be placed adjacent to the main service disconnect in a location clearly visible from the location where the disconnect lever is operated.
 - (4) As required by National Electric Code (NEC), disconnect and other emergency shutoff information shall be clearly displayed on a light reflective surface.
 - (5) A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.
- (f) Utility Connections. Utility lines and connections from a solar farm shall be installed underground, unless otherwise determined by the Planning Board for reasons that may include poor soil conditions, topography of the site, and requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.
- (6) Maintenance Requirements
 - (a) Following construction of a solar farm, all disturbed areas where soil has been exposed shall be reseeded with native grass and/or planted with low-level native vegetation capable of preventing soil erosion and airborne dust.
 - (b) Native grasses and native vegetation, preferably pollinator friendly, shall be maintained below and around the arrays.
 - (c) The ground within the fenced perimeter of a solar farm installation shall not be tamped, compressed, or otherwise specially conditioned with herbicides, pesticides or similar other treatments to inhibit the growth of natural vegetation.
- (7) Annual Reports. The Applicant shall provide the Town Building Inspector on a yearly basis a report showing the rated capacity of the solar farm and the amount of electricity that was generated by the system and transmitted to the grid over the most recent twelve (12) month period. The report shall also identify any change in ownership of the solar farm and/ or the land upon which the solar farm is located and shall identify any change in the party responsible for decommissioning and removal of the solar farm upon its abandonment. The annual report shall be submitted no later than forty-five (45) days after the end of the calendar year.
 - (a) Every third (3rd) year, the annual report shall also include a recalculation of the estimated full cost of decommissioning and removal of the solar farm. The Town may require an adjustment in the amount of the bond to reflect any changes in the

estimated cost of decommissioning and removal. Failure to submit a report as required may be cause to require decommissioning of the system.

- (8) Change in Ownership. If the owner or operator of the solar farm changes or the owner of the property changes, the Special Use Permit shall remain in effect, provided that the successor owner or operator assumes in writing all of the obligations of the original approval, and decommissioning plan. A new owner or operator of the solar farm shall notify the Town of Waterford Building Inspector of such change in ownership or operator within 30 days of the ownership change.

F. Abandonment and Decommissioning

- (1) Required. If a solar farm ceases to perform its originally intended function for more than 12 consecutive months, the solar farm shall be deemed abandoned and the property owner shall notify the Town of Waterford Building Inspector of the system's abandonment.
- (2) Responsible Parties
 - (a) Any solar farm which has been abandoned shall be decommissioned and removed in accordance with the decommissioning plan approved by the Planning Board. The owner of the facility and owner of the land upon which the system is located shall be jointly and severally responsible to physically remove all components of the system within six months of abandonment at the owner's expense. This obligation shall be binding upon the applicant's, owner's, landowner's and/or operator's successors and/or assigns for any solar farm. Upon such failure to either maintain operation or decommission the system as provided for herein, the approvals issued in relation to such system or facility shall terminate.
- (3) Objectives of Decommissioning.

The following requirements shall be met for decommissioning:

 - (a) Physical removal of all above and below ground equipment, structures and foundations, including but not limited to all solar arrays, buildings, security barriers, fences, electric transmission lines and components, roadways and other physical improvements to the site.
 - (b) Any access roads created for building or maintaining the system shall also be removed and replanted with vegetation. The site terrain shall be restored and regraded, if necessary, to a condition generally comparable to its original condition and replanted with native vegetation.
 - (c) The site shall be restored to as natural a condition as possible within six months of the removal of all equipment, structures and foundations. Such restoration shall include, where appropriate, restoration of the surface grade and soil after removal of all equipment and revegetation of restored soil areas with native seed mixes;

- (d) Disposal of all solid and hazardous waste shall be in accordance with local, state, and federal waste disposal regulations. Proof of proper disposal and/or the manifest shall be submitted to the Planning Board.
- (e) All safety hazards created by the installation and operation of the solar farm shall be eliminated.
- (f) Removal of all components of a solar farm must be completed in accordance with the approved decommissioning plan.

G. Submission of Decommissioning Plan.

The decommissioning plan shall address those items listed in this Section and shall include:

- (1) An estimate of the anticipated operational life of the system.
- (2) Identification of the party responsible for decommissioning.
- (3) Description of any agreement with the landowner regarding decommissioning.
- (4) Schedule showing the time frame over which decommissioning will occur and for completion of site restoration work.
- (5) A cost estimate prepared by a qualified professional engineer, estimating the full cost of decommissioning and removal of the solar PV system, Cost estimates shall take into account inflation.
- (6) A financial plan to ensure that financial resources will be available to fully decommission the site.
- (7) The Planning Board may, as a condition of approval, require the posting of a removal bond in an amount adequate to provide for the removal of the solar farm's structures and equipment and for restoration of the site.

H. Removal Bond

- (1) If a removal bond is required, the Planning Board shall require a bond placed in an escrow account to ensure the removal of any solar farm. The amount of the bond shall be 125% of the cost estimate prepared by a qualified professional engineer, estimating the full cost of decommissioning and removal of the solar farm.
- (2) In the event that the solar farm is not removed within six months of becoming inactive or the site is not remediated and restored to a condition approved by the Planning Board, the Town of Waterford, by resolution of the Town Board after 30 days' written notice and opportunity of the landowner and system operator to be heard, may cause the same to be removed and the site remediated using the financial security.

- (3) In the event that the system is not removed within six months of abandonment and the site restored as required, the Town of Waterford, after notice and hearing, may cause the same to be removed and the site restored using the funds in such escrow account. All costs and expenses incurred by the Town in connection with any proceeding or work performed by the Town or its representatives to decommission and remove a solar farm, including legal costs and expenses, shall be reimbursed from the financial surety posted by the system owner or landowner as provided in this Section. Any costs incurred by the Town for decommissioning and removal that are not paid for or covered by the required surety, including legal costs, shall be assessed against the property, shall become a lien and tax upon said property, shall be added to and become part of the taxes to be levied and assessed thereon, and shall be enforced and collected with interest by the same officer and in the same manner, by the same proceedings, at the same time and under the same penalties as are provided by law for the collection and enforcement of real property taxes in the Town.

§ 161-34.5 Telecommunication Facilities

A. Purposes

The purpose of this Section is to promote the health, safety and general welfare of the residents of the Town through the establishment of standards to properly site wireless service facilities commercial transmission towers and antennae through careful design, siting and screening; to protect property values; to protect the physical appearance of the community and to preserve its scenic and natural beauty; to avoid potential damage to adjacent properties from tower failure through proper engineering and careful siting of wireless services and commercial mobile radio service facilities technology; to protect a citizen's ability to receive communication signals without interference from other communication providers while preserving competition among communications providers; and to maximize the use of existing towers or antenna host sites within prescribed districts so as to minimize the number and visual impact of towers needed to serve the Town.

B. Definitions

"Antenna" means a system of electrical conductors that transmit or receive electromagnetic waves or radio frequency or other wireless signals. Such shall include, but not be limited to radio, television, cellular, paging, personal Telecommunications services (PTS), microwave Telecommunications and services not licensed by the FCC, but not expressly exempt from the Town's siting, building, and permitting authority.

"Antenna Array" means one or more antennas used to provide wireless service.

"Co-location" means the use of a Tower or other structure to support Antennas for the provision of wireless services without increasing the height or size of the Tower or other structure. For purposes of clarification, any application proposing to increase the height of the structure to be

attached to shall be deemed a new tower and not a co-located facility.

"FAA" means the Federal Aviation Administration, or its duly designated and authorized successor agency.

"FCC" means that Federal Communications Commission, or its duly designated and authorized successor agency.

"NIER" means Non-Ionizing Electromagnetic Radiation.

"Height" means, when referring to a Tower or other structure, the distance measured from the pre-existing grade level to the highest point on the Tower or structure, even if said highest point is an Antenna, lightning protection device or any other apparatus attached to the Tower or other structure.

"Personal Wireless Facility" See definition for 'Wireless Telecommunications Facilities'.

"Personal Wireless Services" or "PWS" or "Personal Telecommunications Service" or "PCS" shall have the same meaning as defined and used in the 1996 Telecommunications Act, including but not limited to commercial mobile services, unlicensed wireless services and common carrier wireless exchange access service.

"Small Wireless Facilities" or "Small Cell" are defined as those meeting the following conditions:

- (1) The facilities:
 - (a) are mounted on structures 50 feet or less in height including their antennas, or
 - (b) are mounted on structures no more than 10 percent taller than adjacent structures, or
 - (c) do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater;
- (2) Each antenna associated with the deployment, excluding associated antenna equipment, is no more than 3 cubic feet in volume, and
- (3) All other wireless equipment associated with the structure including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than 28 cubic feet in volume."

"Stealth" or "Stealth Technology" means minimizing adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of such Wireless Telecommunications Facilities, by using the least

visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances.

"Telecommunications" means the transmission and/or reception of audio, video, data, and other information by wire, radio frequency, light, and other electronic or electromagnetic systems.

"Telecommunications Structure" means a structure used in the provision of services described in the definition of 'Wireless Telecommunications Facilities'.

"Wireless Telecommunications Facilities" means and includes a "Telecommunications Tower" and "Tower" and "Telecommunications Site", and "Personal Wireless Facility" means a structure, facility or location designated, or intended to be used as, or used to support, Antennas or other transmitting or receiving devices. This includes without limit, Towers of all types and kinds and structures that employ camouflage technology, including, but not limited to structures such as a multi-story building, church steeple, silo, water tower, sign or other structures that can be used to mitigate the visual impact of an Antenna or the functional equivalent of such, including all related facilities such as cabling, guy wires and associated anchors, equipment shelters, and other structures associated with the site. It is a structure and facility intended for transmitting and/or receiving radio, television, cellular, paging, 911, Personal Telecommunications Services, commercial satellite services, microwave services and services not licensed by the FCC, but not expressly exempt from the Town's siting, building and permitting authority, excluding those used exclusively for the Town's fire, police, or exclusively for private, non-commercial radio and television reception and private citizen's bands, amateur radio and other similar non-commercial Telecommunications where the height of the facility is below the height limit of 45 feet.

C. Applicability

Wireless Telecommunication Facilities shall be allowed only upon approval of a Special Use Permit by the Planning Board in all districts in the Town of Waterford. All new Wireless Telecommunication Facilities in the Town of Waterford, except for Small Wireless Facilities (SWF), shall be subject to these and all other applicable regulations and shall follow all requirements and procedures for a Special Use Permit pursuant to Article XII (Special User Permits) of this Zoning Law. Small Wireless Facilities shall be regulated pursuant to the Town of Waterford Wireless Communications Facilities Master License Agreement and the Town of Waterford Small Wireless Facilities Aesthetic Design Standards.

- (1) No Telecommunications tower as defined in this law shall hereafter be used, erected, moved, reconstructed, changed, or altered unless in conformity with these standards and procedures. No existing structure shall be modified to serve as a telecommunications tower unless in conformity with these standards and procedures.
- (2) The standards and procedures shall apply to all property within the Town of Waterford.

D. Application Requirements

Any application for a Wireless Telecommunication Facility shall include the following information in addition to such application requirements pursuant to Article XI:

- (1) Documentation that demonstrates the need for the Wireless Telecommunications Facility to provide service primarily and essentially within the Town. Such documentation shall include, but not be limited to propagation studies of the proposed site and all adjoining planned, proposed, in-service or existing sites as requested by the Planning Board or its designee and shall show the service area and signal strength relationship between the proposed site and the adjoining planned, proposed, in-service or existing sites;
- (2) The name, address and phone number of the person preparing the application;
- (3) The name, address, and phone number of the property owner, operator, and Applicant, and to the legal status of the Applicant;
- (4) The postal address, 911 lot number and tax map parcel number of the property;
- (5) The zoning district in which the property is situated;
- (6) The size of the property stated both in square feet and lot line dimensions, and a diagram showing the location of all lot lines. A survey is required by a licensed New York State land surveyor, or qualified licensed New York State engineer;
- (7) A copy of the property deed and any easements or restrictions.
- (8) The location of the nearest residential structure and all property owners within 500 feet from the proposed site.
- (9) The location, size, and height of all structures on the property, which is the subject of the Application;
- (10) The location, size and height of all proposed and existing antennas and all appurtenant structures;
- (11) The type, locations and dimensions of all proposed and existing landscaping, vegetation and fencing;
- (12) The number, type and design of the Tower and Antenna(s) proposed and the basis for the calculations of the Tower's capacity to accommodate multiple users;
- (13) The make, model and manufacturer of the Tower and Antenna(s);
- (14) A description of the proposed Tower and Antenna(s) and all related fixtures, structures, appurtenances and apparatus, including height above pre-existing grade, materials, color, and lighting;
- (15) The frequency, modulation, and class of service of radio or other transmitting equipment;
- (16) The actual intended transmission and the maximum effective radiated power of the Antenna(s);
- (17) Direction of maximum lobes and associated radiation of the Antenna(s);
- (18) Certification that the NIER levels at the proposed site are within the threshold levels adopted by the FCC and the provision of the calculations used to determine the cumulative NIER levels.
- (19) Certification that the proposed Antenna(s) will not cause interference with other telecommunications devices;

- (20) Copy of the FCC license applicable for the intended use of the Wireless Telecommunications Facilities;
- (21) Certification that a topographic and geomorphologic study and analysis has been conducted and that, considering the substrata and the proposed drainage plan, the site is adequate to assure the stability of the proposed Wireless Telecommunications Facilities as designed, on the proposed site.
- (22) Payment of an application fee as set forth by the Town Board.

E. Development Standards

- (1) All proposed telecommunication towers and accessory structures shall be setback from abutting parcels, established hiking trails, recorded rights of way, and street lines a distance sufficient to substantially contain on-site all ice-fall or debris from tower failure and preserve the privacy of any adjoining residential properties.
- (2) Lot size of parcels containing a tower shall be determined by the amount of land required to meet the setback requirements.
- (3) Telecommunications Towers shall comply with all existing setback requirements of site plan review (if applicable) or shall be located with a minimum setback from any property line equal to one and one-half (1 1/2) of the height of the tower, whichever is greater.
- (4) The maximum height of any new tower shall not exceed that which shall permit operation without artificial lighting of any kind or nature, in accordance with municipal, state, and or federal law and or regulation. The Planning Board at its discretion may modify this requirement if the applicant can justify the need to exceed this height limitation. Artificial lighting may be required by the Federal Aviation Administration depending on the tower's height and location.
- (5) No sign larger than four square feet shall be permitted and such sign shall provide notification to persons in the immediate area of the presence of an Antenna that has Radio Frequency (RF) or microwave transmission capabilities and shall contain the name(s) of the owner(s) and operator(s) of the Antenna(s) as well as emergency phone number(s). The sign shall be on the equipment shelter or cabinet of the Applicant and be visible from the access point of the site and must identify the equipment owner of the shelter or cabinet. The sign shall not be lighted, unless lighting is required by applicable law, rule, or regulation. No other signage, including advertising, shall be permitted.
- (6) Wireless Telecommunications Facilities shall contain a demonstration that the Facility will be sited so as to be the least visually intrusive reasonably possible and thereby have a minimal adverse visual effect on the environment and the nature and character of the community, existing vegetation, and on the residents in the area of the Wireless Telecommunications Facility. The Planning Board may require the applicant to undertake a visual impact assessment which may include:
 - (a) At times set by the Planning Board, and to be announced in the local paper, a three-foot or larger diameter, brightly colored balloon floated at the maximum height and location of proposed tower, at least twice, once during the week and once during the weekend.
 - (b) Pictorial representations of "before and after" views from key viewpoints both inside

- and outside of the Town as may be appropriate, including but not limited to State highways and other major roads; State and local parks; other public lands; historic districts; preserves and historic sites normally open to the public; and from any other location where the site is visible to a large number of visitors, travelers, or residents. Pictorial representations should be taken at a location from which the view of the proposed tower is not obstructed.
- (c) A “Zone of Visibility Map” in order to determine locations where the tower may be seen. c. Pictorial representations of “before and after” views from key viewpoints both inside and outside of the town including but not limited to state highways and other major roads, state and local parks, other public lands, preserves and historic sites normally open to the public, and from any other location where the site is visible to a large number of visitors or travelers. The board shall determine the appropriate key sites at a pre-submission conference with the applicant.
 - (d) Assessment of alternative tower designs and color schemes, as described below.
 - (e) Assessment of the visual impact of the tower base, guy wires, accessory buildings and overhead utility lines from abutting properties and streets.
 - (f) Unless specifically required by other regulations, a tower shall have a finish (either painted or unpainted) that minimizes its degree of visual impact.
 - (g) Accessory structures shall maximize the use of building materials, colors and textures designed to blend with the natural surroundings.
 - (h) No portion of any tower or accessory structure shall be used for a sign or other advertising purpose, including but not limited to company name, phone numbers, banners, and streamers.
- (7) Existing Vegetation. Existing on-site vegetation shall be preserved to the maximum extent possible. No cutting of trees exceeding four (4) inches in diameter (measured to a height of four [4] feet off the ground), shall take place after the initial application, unless approved as part of the final site plan. If the Visual Impact Analysis reveals that there is vegetation on or adjacent to the project site that must be retained for screening of the proposed Tower or Facility, the applicant shall document how such vegetation will be protected throughout the operational life of the Facility.
- (8) Screening. Deciduous or evergreen tree plantings may be required to screen portions of the tower and accessory structures from nearby residential property as well as from public sites known to include important views or vistas. Where a site abuts a residential property or public property, including streets, screening shall be required.
- (9) Access. Adequate emergency and service access shall be provided. Maximum use of existing roads, public or private, shall be made. Road construction shall, at all times, minimize ground disturbance and vegetation cutting to within the toe of fill, the top of cuts, or no more than ten (10) feet beyond the edge of any pavement. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential.
- (10) Parking. Parking shall be provided to assure adequate emergency and service access. The Planning Board shall determine the number of required spaces based upon a recommendation from the applicant. No parking spaces shall be located in any required yard.

- (11) Fencing. The tower and any accessory structures shall be adequately enclosed by a fence, design of which shall be approved by the Planning Board. This requirement may be waived by the Planning Board if the applicant demonstrates that such measures are unnecessary to ensure the security of the facility.
- (12) To the extent that the holder of a Special Use Permit for Wireless Telecommunications Facilities has not received relief, or is otherwise exempt, from appropriate State and/or Federal agency rules or regulations, then the holder of a Special Use Permit issued by the Town of Waterford shall adhere to, and comply with, all applicable rules, regulations, standards, and provisions of any State or Federal agency, included, but not limited to, the FAA and the FCC. Specifically including in this requirement are any rules and regulations regarding height, lighting, security, electrical and radio frequency (RF) emission standards.

F. Shared Use and Colocation

At all times, shared use of existing structures (for example, municipal water towers, steeples, multistory buildings, etc.) and existing or approved towers shall be preferred to the construction of new towers. The Applicant shall submit a comprehensive report inventorying existing Towers and other suitable structures within five (5) miles of the location of any proposed new Tower, unless the Applicant can show that some other distance is more reasonable and demonstrate conclusively why an existing Tower or other suitable structure cannot be used.

- (1) An applicant proposing to co-locate on an existing structure that is not a telecommunications structure shall be required to submit to the Planning Board:
 - (a) a completed application;
 - (b) documentation of intent from the owner of the existing facility to all shared use;
 - (c) a site plan showing all existing and proposed structures and improvements including antennae, roads, buildings, guy wires and anchors, parking and landscaping, including grading plans for new facilities and roads. Any methods used to conceal the modification of the existing facility shall be indicated on the site plan.
 - (d) an engineer's report certifying that the proposed shared use will not diminish the structural integrity and safety of the existing tall structure, and explaining what modifications, if any, will be required in order to certify the above;
 - (e) a completed short Environmental Assessment Form (EAF); and
 - (f) a copy of its Federal Communications Commission (FCC) license.
- (2) Shared Usage of an Existing Tower Site. Where shared use of existing tall structures, and existing or approved towers, is found to be impractical, the applicant shall investigate shared usage of an existing tower site for its ability to accommodate a new tower and accessory uses.
- (3) New Towers: Future Shared Use. The applicant shall design a proposed new telecommunications tower to accommodate future demand for reception and transmitting facilities. The applicant shall submit to the Planning Board a letter of intent committing

the owner of the proposed new tower, and his/her successors in interest, to negotiate in good faith for shared use of the proposed tower by other telecommunications providers in the future. This letter shall be filed with the Building Inspector prior to issuance of a building permit. Failure to abide by the conditions outlined in the letter may be grounds for revocation of the permit. The letter shall commit the new tower owner and his/her successors in interest to:

- (a) Respond within 90 days to a request for information from a potential shared-use applicant.
- (b) Negotiate in good faith concerning future requests for shared use of a new tower by other telecommunications providers.
- (c) Allow shared use of the new tower if another telecommunications provider agrees in writing to pay reasonable charges. The charge may include, but is not limited to, appropriate share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance financing, return on equity, and depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference.

G. Retention of Expert Assistance and Reimbursement to the Town.

- (1) The Planning Board may retain consultants and/or experts necessary to assist the Town in reviewing and evaluating the Application, including the construction and modification of the site, once permitted, and any requests for Re-certification.
- (2) An Applicant shall deposit with the Planning Board funds sufficient to reimburse the Town for all reasonable costs of consultant and expert evaluation and consultation to the Town in connection with the review of any Application including the construction and modification of the site, once permitted.

H. Maintenance, Monitoring and Evaluation of Compliance

All facilities shall be maintained to acceptable industry standards. The Planning Board may require any of the following conditions to ensure ongoing maintenance of the facility:

- (1) Ongoing periodic monitoring of microwave emissions by an independent agency.
- (2) Ongoing structural inspections.
- (3) Liability insurance covering the applicant who shall provide annually to the Town Clerk a certificate of such insurance.
- (4) An initial cash bond posted in a reasonable amount determined and approved by the Planning Board. This bond shall be in force to cover the costs of the remediation of any damage to the landscape which occurs during the clearing of the site, and to cover the cost of the removal of the Tower from the site and remediation of the landscape should the tower cease to operate.
- (5) Prior to issuance of a Building Permit of Wireless Telecommunications facilities, the Applicant and the owner of record of any proposed Wireless Telecommunications

Facilities site shall, at its cost and expense, be jointly required to execute and file with the Planning Board, cash, or other form of security acceptable to the Planning Board as to type of security and the form and manner of execution, in an amount of at least \$10,000.00 and with such sureties as are deemed sufficient by the Planning Board to assure the faithful performance of the terms and conditions of this Local Law and conditions of any Special Use Permit issued pursuant to this Zoning Law. The full amount of the security shall remain in full force and effect throughout the term of the Special Use Permit and/or until any necessary site restoration is completed to restore the site to a condition comparable to that which existed prior to the issuance of the original Special Use Permit.

I. Removal

The applicant shall submit to the Planning Board a letter of intent committing the tower owner, and his or her successors in interest, to notify the building inspector within thirty (30) days of the discontinuance of use of the tower. This letter shall be filed with the building inspector prior to issuance of a building permit (assuming the telecommunications tower is approved according to this section). Obsolete or unused towers and accessory structures shall be removed from any site within four (4) months of such notification. The Town may require the applicant to post a bond for future removal. All towers and accessory structures unused for a period of one year shall be deemed abandoned and the Town may remove the tower and place the cost of removal as a lien on the tax rolls if unpaid.

J. Inter-municipal Notification for New Towers

In order to keep neighboring municipalities informed, and to facilitate the possibility of directing that an existing tall structure or existing telecommunications tower in a neighboring municipality be considered for shared use, and to assist in the continued development of County 911 Services, the Planning Board shall require that:

- (1) An applicant who proposes a new telecommunications tower shall notify in writing the legislative body of each municipality that borders Waterford, the Saratoga County Planning Board, and the Director of Saratoga County Emergency Services. Notification shall include the exact location of the proposed tower, and a general description of the project including, but not limited to, the height of the tower and its capacity for future shared use.
- (2) Documentation of this notification shall be submitted to the Planning Board at the time of the application.

K. Notification of Nearby Landowners

The applicant shall be required to mail notice of the public hearing directly to all landowners whose property located within five hundred (500) feet of the property line of the parcel on which a new tower is proposed. Notice shall also be mailed to the administrator of any state or federal parklands from which the proposed tower would be visible if constructed. Notification, in all cases, shall be made by Certified Mail. Documentation of this notification shall be submitted to

the Planning Board prior to the public hearing.

§ 161-34.6 Home Occupations, Minor and Major

- A. The home occupation must be clearly incidental and subordinate to the residential use.
- B. No home occupation shall generate traffic volumes or increased traffic hazards than would normally be expected in a residential district.
- C. All minor and major home occupations shall be conducted by a person living on the property in which the person must be a resident in order to operate the home occupation.
- D. Minor home occupations shall employ no more than one (1) nonresident in addition to the home occupant and resident family members working in the home occupation. No more than four nonresident employees may be allowed with a Major Home Occupation.
- E. No more than twenty-five percent (25%) of the existing gross floor area of the principal structure shall be devoted to a minor or major home occupation. No accessory structure used for a home occupation shall exceed six hundred (600) square feet.
- F. There shall be no display of goods or wares visible from the street.
- G. One sign, not exceeding two square feet in size per side shall be allowed for minor home occupations. One sign, not exceeding four square feet in size per side shall be allowed for a major home occupation. No sign for any home occupation shall be illuminated.
- H. The home occupation shall not be objectionable or detrimental to the residential character of the neighborhood because of the exterior appearance, traffic, emission of odor, gas, smoke, dust, noise, electrical disturbance, light emissions, or in any other way. No noises exceeding 55 decibels at the property line shall be generated when a home occupation is located in any residential district.
- I. Major home occupations may have exterior storage of materials or equipment provided they are fully enclosed within a structure such as a shed or garage and located to the side and rear of the principal structure. All setbacks and other requirements for accessory structures shall be met.
- J. Minor home occupations shall be allowed in a two or multi-family dwelling, provided all requirements of this section can be met and the minor home occupation shall in no way become objectionable or detrimental to any residential use within the structure. Major home occupations shall not be permitted in any two-or multi-family dwelling.
- K. The residential character of any structure used for a minor or major home occupation shall be maintained.
- L. Occupations such as those that require heavy duty equipment or trucks such as landscaping, freight, trucking, and more intense uses such as restaurants, tool or equipment rental,

veterinary hospital or kennels, and others of a similar nature shall not be considered a minor or major home occupation.

M. All parking requirements of 161-30 shall be met for all major home occupations.

N. Not more than one (1) commercial vehicle in connection with such home occupation shall be stored on the premises.

O. Retail sales shall be limited to goods made and/or prepared on site except for those major home occupations located in a commercial or manufacturing district.

Article VI Administration

§ 161-35 Zoning Inspector/Building Inspector.

- A. The provisions of this chapter shall be administered and enforced by a person designated by the Town Board as the "Zoning Inspector," who shall have the power to make inspections of buildings or premises necessary to carry out his duties in the enforcement of this chapter. No building permit or certificate of occupancy required hereunder shall be issued by the Zoning Inspector except in compliance with the provisions of this chapter or as directed by the Board of Appeals under the provisions of Article **VII**. The terms 'zoning inspector' and 'building inspector' shall be synonymous.
- B. The powers and duties of the Zoning Inspector/Building Inspector shall be to:
- (1) Examine and approve applications pertaining to the use of land, buildings, or structures when the applications conform to the provisions of this chapter.
 - (2) Issue all building permits and certificates of occupancy and keep permanent records thereof pursuant to Chapter 61 of the Town of Waterford Code.
 - (3) Conduct such inspections of buildings, structures and uses of land as are necessary to determine compliance with the provisions of this chapter.
 - (4) Receive, file and forward for appropriate action all applications for special uses, variations, interpretations and amendments to this chapter.
 - (5) Maintain permanent and current records of the Zoning Law, including all maps, amendments, special uses, and variances.
 - (6) Collect, receipt and account for all fees chargeable under the provisions of this chapter and pay all of the same into the appropriate town fund. **[Amended 3-5-1972]**
 - (7) Register all nonconforming uses.
 - (8) Pursuant to Chapter 61 of the Town of Waterford Code, the Building Inspector's duties shall also be:
 - (a) To conduct inspections necessary to the investigation of complaints and all other inspections required or permitted under any provision of this Zoning Law, and to request and inspect any records or documents authorized pursuant to the provisions of this Zoning Law.

- (b) To issue stop work orders, notices of violations and compliance orders, and to revoke zoning permits.
- (c) To accept complaints of violations of this Zoning Law from citizens and public officials, to document and follow up on violations encountered during the course of inspections or through general observation in the community, to investigate potential violations, and where necessary in the discretion of the Town, to commence enforcement of the Zoning Law.
- (d) To pursue administrative and civil enforcement actions and proceedings and/or criminal proceedings to enforce the provisions of this Zoning Law.
- (e) To consult with the Town Attorney about pursuing such legal actions and proceedings as may be necessary to enforce the provisions of the Zoning Law.

§ 161-36 Building permits.

- A. No building shall be erected, moved, externally altered, added to, or enlarged, and no excavation for any building shall be begun, unless and until a building permit pursuant to Chapter 61 of the Town of Waterford Code for such work has been issued by the Zoning Inspector/Building Inspector. § 161-37 Certificates of occupancy.
- B. A certificate of occupancy is required for any of the following:
 - (1) Occupancy and use of a building hereafter erected, externally altered, moved, or extended.
 - (2) Change in the use of an existing building.
 - (3) Occupancy and use of vacant land, except for any use consisting primarily of tilling the soil or similar agricultural use.
 - (4) Change in the use of land, except for any use consisting primarily of tilling the soil or similar agricultural use.
- C. A certificate of occupancy may be obtained, on application, from the Zoning Inspector/Building Inspector. Such certificate shall be issued only if the proposed use of the building or land conforms to the provisions of this chapter. The Zoning Inspector/Building Inspector shall make or cause to have made an inspection of each building or lot for which a certificate of occupancy has been applied before issuing such certificate. Such inspection shall be made within 15 days from the date of application, Saturdays, Sundays, and legal holidays excepted. Failure to make such inspection and determination within the specified period of time shall be deemed to be approval of the application for a certificate of

occupancy.

- D. No certificate of occupancy need be obtained for any continuation of a nonconforming use existing on the effective date of this chapter, regardless of whether the premises housing such nonconforming use are externally altered, varied, etc.

§ 161-37.1 Stop Work Orders.

- A. The Building Inspector is authorized to issue stop work orders pursuant to this Article and to Chapter 61-6 for any work that is determined by the Building Inspector to be conducted in violation of the Zoning Law, including, but not limited to, work being conducted on land and/or work being conducted on a building or structure for which a special use permit or site plan approval is required but has not been obtained.

§ 161-37.2 Complaints.

- A. The Building Inspector shall review and investigate complaints that allege or assert the existence of conditions or activities that fail to comply with this Zoning Law. The process for responding to a complaint shall be pursuant to Chapter 61-12 of the Town of Waterford Code.

Article VII
Board of Appeals

§ 161-38 Membership, Officers, Terms of Office, and Vacancies.

- A. The Zoning Board of Appeals shall consist of five members. Town board members are ineligible for membership on the Zoning Board of Appeals.
- B. The Board of Appeals shall have the duties, rights, powers, and functions conferred upon it by § 267 of Article 16 and as per 161-39 of the Town Law and any other provisions of law or ordinance applicable thereto.
- C. The terms of office of the members of the Zoning Board of Appeals and the manner of their appointment shall be in accordance with the provisions of the Town Law.
- D. **Alternate Members.** Alternate members of the Zoning Board of Appeals may be appointed by the Town Board pursuant to Chapter 4 of the Town of Waterford Code.
- E. Vacancies occurring in the Zoning Board of Appeals shall be filled for such unexpired period only.
 - (1) Should any vacancy on the Board occur for any reason, the Secretary shall give immediate notice to the Town Clerk for the Town Board. The Town Board shall then appoint a new member for the unexpired term.
- F. **Removal of Members.** The Town Board shall have the power to remove, after public hearing, any member of the Zoning Board of Appeals for cause. Any Zoning Board of Appeals member may be removed for non-compliance with minimum requirements relating to meeting attendance and training as established by the Town Board by local law.
- G. **Officers.**
 - (1) **Chairman.** The Chairman shall be designated by the Town Board. The chair shall perform all duties required by law, ordinance, and these rules, and shall preside at all meetings of the Board. The Chairman's or Secretary's signature shall be the official signatures of the Board and shall appear on all decisions as directed by the Board.
 - (2) **Secretary.** A Secretary shall be appointed by resolution of the Board of Appeals. The Secretary, subject to the direction of the Board and the Chairman, shall keep minutes of all Board proceedings, showing the vote of each member upon every question or, if absent or failing to vote, indicating such fact, and shall also keep records of all Board examinations and other official actions. The Secretary shall serve as Chair in the absence of the Chairman and shall have all the powers of the Chairman during the

Chair's absence, disability, or disqualification.

- H. Meetings, Minutes, Records. Meetings of the Zoning Board of Appeals shall be open to the public to the extent provided in Article 7 of the Public Officers Law. The Board shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact and shall also keep records of its examination and other official actions.
- I. Filing Requirements. Every rule, regulation, every amendment or repeal thereof, and every order, requirement, decision, or determination of the Zoning Board of Appeals shall be filed in the office of the Town Clerk within five business days and shall be a public record.
- J. Assistance to Zoning Board of Appeals. Such Board shall have the authority to call upon any department, agency, or employee of the Town for assistance as shall be deemed necessary and as shall be authorized by the Town Board. Such department, agency or employee may be reimbursed for any expenses incurred as a result of such assistance.
- K. Quorum and Voting.
 - (1) A quorum shall consist of a majority of the members of the Board.
 - (2) No hearing or meeting of the Board shall be held nor any action taken in the absence of a quorum; however, those members present shall be entitled to request the Chairman to call a special meeting for a subsequent date. All subsequent hearings shall be re-advertised in accordance with the requirements of the applicable law.

§ 161-38.1 Appeals; fees.

- A. Appeals. The Zoning Board of Appeals shall hear and decide appeals from and review any order, requirement, decision or determination made by an administrative official charged with the enforcement of any ordinance or law adopted pursuant to Article 16 of the Town Law. The Zoning Board of Appeals may reverse, affirm, wholly or partly, or may modify the order, requirement, decision, interpretation or determination appealed from and shall make such order, requirement, decision, interpretation or determination as in its opinion ought to have been made in the matter by the administrative official charged with the enforcement of such local law and to that end shall have all the powers of the administrative official from whose order, requirement, decision, interpretation or determination the appeal is taken.
- B. Filing of appeals. An appeal must be made within 60 days of the action of the administrative official appealed from. The applicant must file a notice of appeal with the administrative official from whom the appeal is taken and with the Secretary of the Board of Appeals. Such notice shall be made on the form provided for that purpose. The

administrative official from whom the appeal is taken shall be responsible, at the direction of the Board, for providing any applicant with the proper forms and for instructing the parties concerned on the proper manner for completing and filing said forms. All information required thereon shall be complete before an appeal is considered filed. Seven copies of the proper appeal form shall be filed with the Board. **[Amended 9-1-1987 by L.L. No. 3-1987]** The administrative official from whom the appeal is taken shall transmit to the Zoning Board of Appeals all papers constituting the record upon which the action appealed from was taken.

- C. A fee in the amount as established by the Town Board shall be chargeable and shall accompany all applications or petitions of appeal. Any fee so paid shall be refunded if the person bringing the appeal shall obtain the relief sought; provided, however, that this refund provision shall not be applicable where the issue is a variance or special permit application. **[Amended 1-2-1990]**
- D. Stay Upon Appeal. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the administrative official charged with the enforcement of the local law, from whom the appeal is taken, certifies to the Zoning Board of Appeals, after the notice of appeal shall have been filed with the administrative official, that by reason of facts stated in the certificate, a stay would, in his or her opinion, cause imminent peril to life or property. In which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Appeals or by a court of record on application, on notice to the administrative official from whom the appeal is taken and on due cause shown.
- E. Amendments to appeals. Appeals may be amended 15 days prior to the public hearing thereon. **[Added 9-1-1987 by L.L. No. 3-1987]**
- F. Notice to applicant. The applicant shall be notified by letter within five days of the hearing on his application or of his failure to complete his application properly. **[Added 9-1-1987 by L.L. No. 3-1987]** See also 161-41 (A).

§ 161-39 Powers and duties.

The Board of Appeals shall have the following powers and duties prescribed by statute and by this chapter:

- A. Interpretation: on appeal from a determination of the Zoning Inspector/Building Inspector, to hear and decide on questions where it is alleged that there is an error in any order, requirement, decision, or determination made by the Zoning Inspector/Building Inspector involving the interpretation of any provision of this chapter.
- B. Variance: The Zoning Board of Appeals is authorized to issue use and area variances. The

Zoning Board of Appeals shall prescribe appropriate conditions and safeguards to carry out the requirements of this subsection and shall not grant any variance unless it shall make a finding of fact based upon the evidence as presented to it in each specific case that the criteria of 161-41 (D) and (E) have been met.

§ 161-40 Meetings and records.
[Amended 9-1-1987 by L.L. No. 3-1987]

Meetings and records of the Zoning Board of Appeals shall be in conformance with the rules of procedure of the Zoning Board of Appeals as they may be adopted, and which shall be in conformance with the Town Law.

§ 161-41 Hearings.

- A. When required. Public hearings shall be held on all requests for variances or special permits. **[Added 8-6-1968]** The Zoning Board of Appeals shall give public notice of any hearing by publication in a paper of general circulation in the Town at least five days prior to the date established for the hearing. The cost of sending or publishing any notices related to an appeal, or a reasonable fee related thereto, shall be borne by the appealing part, and shall be paid to the Board prior to the hearing of such appeal. The Zoning Board of Appeals shall also notice adjacent municipalities at least 10 days prior to when a hearing is held related to the granting of a use variance on a property that is within five hundred feet of an adjacent municipality as per GMU 239-nn.
- B. Time of hearing. The Board of Appeals shall schedule a hearing on all appeals or applications within 45 days of the filing of the appeal or application. **[Added 9-1-1987 by L.L. No. 3-1987]**
- C. Notices. **[Added 9-1-1987 by L.L. No. 3-1987]**
- (1) Zoning appeals. The Board shall give notice of the hearing at least five days (§ 267, Subdivision 5, of the Town Law) prior to the date thereof by publication in the official paper. The Board shall mail notices of the hearing to the parties and to the Regional State Park Commission having jurisdiction over any state park or parkways within 500 feet of the property affected by such appeal at least five days prior to the hearing.
 - (2) Official map appeals. The Board shall give public notice of the hearing at least 10 days prior to the date thereof by publication in a newspaper of general circulation in the town, in accordance with § 279 of the Town Law, for appeals from the Town Official Map or in accordance with § 239-j of the General Municipal Law, for appeals from the County Official Map.
 - (3) Appeals to build on unimproved or unmapped street: same as Subsection **C(1)** above. See § 280-a, Subdivision 3, of the Town Law.

- D. Form of notice. Such notice shall state the location of the building or lot, the general nature of the question involved, the date, time and place of the hearing and the nature of the relief sought. **[Added 9-1-1987 by L.L. No. 3-1987]**
- E. The order of business at a hearing shall be as follows: **[Added 9-1-1987 by L.L. No. 3-1987]**
- (1) Rollcall.
 - (2) The Chairman shall give a statement of the case and read all correspondence and reports received thereon.
 - (3) The applicant shall present his case.
 - (4) Those opposed shall present their arguments.
 - (5) Rebuttal by both sides.
 - (6) Additional cases.
 - (7) Adjournment of hearings.
 - (8) Call to order of regular meetings, when applicable; see § 161-6E(4).
- F. General rules. Any party may appear in person or by agent or by attorney. **[Added 9-1-1987 by L.L. No. 3-1987]**
- G. Administering oaths; witnesses. The Chairman or, in his absence, the Secretary may administer oaths and compel the attendance of witnesses. **[Added 9-1-1987 by L.L. No. 3-1987]**
- H. Rehearing. **[Added 9-1-1987 by L.L. No. 3-1987]**
- (1) Upon motion initiated by any member and adopted by unanimous vote of the members present, but not less than a majority of all the members, the Board shall review at a rehearing any order, decision, or determination of the Board not previously reviewed. Notice shall be given as upon an original hearing. Upon such rehearing and provided that it shall appear that no vested rights, due to reliance on the original order, decision, or determination, will be prejudiced thereby, the Board may, upon the unanimous vote of all the members present, reverse, modify or annul its original order, decision, or determination.

- (2) An application for a rehearing may be made in the same manner as provided for the original hearing. The application for rehearing may be denied by the Board if, from the record, it shall appear that there has been no substantial change in facts, evidence or conditions.

**§ 161-42 Referrals and Compliance with State Environmental Quality Review Act.
[Added 9-1-1987 by L.L. No. 3-1987]**

- A. Zoning referrals. All matters requiring referral as specified by any ordinance or law enacted under Article 16 of the Town Law shall be so referred to the proper agency for its recommendations. Within 30 days, or as specified in the particular ordinance or law, after receipt of a full statement of such referred matter, said agency shall report its recommendations thereon to the Board with a full statement of the reasons for such recommendations. If such agency fails to respond within the prescribed time, the Board may act without such report. The Board shall not act contrary to any said agency's recommendations without first fully setting forth in the Official Record the reasons for such contrary action. The Chairman shall read all such reports at the hearing on the matter under review.
- B. County zoning referrals.
 - (1) Prior to taking action on any matter which would cause any change in the regulations or use of land or buildings on real property as specified in § 239-m of the General Municipal Law, the Board shall make referrals to the county planning agency or, in the absence of such agency, to a metropolitan or regional agency having jurisdiction in accordance with §§ 239-1 and 239-m of the General Municipal Law.
 - (2) Within 30 days after receipt of a full statement of such referred matter, the planning agency to which referral is made or an authorized agent of said agency shall report its recommendations thereon to the Board, accompanied by a full statement of the reasons for such recommendations. If such planning agency disapproves the proposal or recommends modification thereof, the Board shall not act contrary to such disapproval or recommendation except by a vote of a majority plus one of all the members thereof and after the adoption of a resolution fully setting forth the reasons for such contrary action. The Chairman shall read the report of the county planning agency at the public hearing on the matter under review.
 - (3) If such planning agency fails to report within such period of 30 days or such longer period as may have been agreed upon by it and the referring agency, the Board may act without such report.

- C. SEQRA. The Zoning Board of Appeals shall comply with the provisions of the New York State Environmental Quality Review Act. § 161-43 Decisions. [Added 9-1-1987 by L.L. No. 3-1987]
- D. Time of decisions. Decisions by the Board shall be made not later than 62 days from the date of the close of the final hearing. The time within which the Zoning Board of Appeals must render its decision may be extended by mutual consent of the applicant and the Board.
- E. Voting Requirements. All matters shall be decided by roll call vote. Every motion or resolution of the board of appeals shall require for its adoption the affirmative vote of the majority of all the members of the board of appeals as fully constituted regardless of vacancies or absences. Where an action is the subject of a referral to the county planning agency, the voting provisions of Section 239-m of the General Municipal Law shall apply.
 - (1) Default denial of appeal. In exercising its appellate jurisdiction only, if an affirmative vote of a majority of all members of the board is not attained on a motion or resolution to grant a variance or reverse any order, requirement, decision or determination of the Building Inspector within the time allowed by this Chapter, the appeal is denied. The Board may amend the failed motion or resolution and vote on the amended motion or resolution within the time allowed without being subject to the rehearing process as set forth in this sub-section.
 - (2) No member of the Board shall sit in hearing or vote on any matter in which he is personally or financially interested. Said member shall not be counted by the Board in establishing the quorum for such matter.
 - (3) No member shall vote on the determination of any matter requiring public hearing unless he has attended the public hearing thereon; however, where such member has familiarized himself with such matter by reading the record, he shall be qualified to vote.
- F. Form of decision. The final decision on any matter before the Board shall be made by written order signed by the Chairman or Secretary. Such decision shall state the findings of fact which were the basis for the Board's determination. After such determination, the Board may reverse or affirm, wholly or partly, or may modify the order or requirements of the administrative official appealed from. The decision shall also state any conditions and safeguards necessary to protect the public interest.
- G. Basis for decisions. The Board, in reaching said decision, shall be guided by standards specified in the applicable ordinance or law as well as by the community goals and policies as specified in a Comprehensive Plan, if any, and by the findings of the Board in each case.

- H. Area variance. In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the Board shall also consider:
- (1) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
 - (2) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
 - (3) Whether the requested area variance is substantial;
 - (4) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
 - (5) Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals but shall not necessarily preclude the granting of the area variance.
- I. Use Variance. The Zoning Board of Appeals, on appeal from the decision or determination of the administrative official charged with the enforcement of such local law or ordinance, shall have the power to grant use variances. No such use variance shall be granted by the Board of Appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship, the applicant shall demonstrate to the Board of Appeals that for each and every permitted use under this Zoning Chapter for the particular district where the property is located,
- (1) the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
 - (2) that the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
 - (3) that the requested use variance, if granted, will not alter the essential character of the neighborhood; and
 - (4) that the alleged hardship has not been self-created.
- J. Imposition of Conditions. The Zoning Board of Appeals shall, in the granting of both use and area variances, have the authority to impose such reasonable conditions and restrictions

as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of this Zoning Law or other local law or ordinance and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

- K. Conflicts with other laws or regulations. In reviewing an application on any matter, the standards in any applicable local law or ordinance or state statute shall take precedence over the standards of these rules whenever a conflict occurs. In all other instances, the more restrictive rule shall apply.
- L. Expiration of permits. Unless otherwise specified, any order or decision of the Board for a permitted use shall expire if a building or occupancy permit for the use is not obtained by the applicant within 90 days from the date of the decision; however, the Board may extend this time an additional 90 days.
- M. Decisions on rehearings. After a rehearing, other than one based on a substantial change in conditions, the original order may be changed only by a concurring vote of all the members then present, but not less than a majority of the Board, and in conformance with § 161-41H(1).
- N. Filing of decisions. Decisions of the Board shall be filed in the office of the Town Clerk within five business days after the day such decision is rendered and shall be a public record. The date of filing of each decision shall be entered in the official records and minutes of the Board.
- O. Notice of decision. Copies of the decision shall be forwarded to the applicant, the Municipal Planning Board, and the county planning agency when referral to the county planning agency was required in the particular case.
- P. Certification of decision. A certified copy of the Board's decision, including all terms and conditions, shall be transmitted to the municipal administrative official and shall be binding upon and observed by him, and he shall fully incorporate such terms and conditions of the same in the permit to the applicant or appellant whenever a permit is authorized by the Board.

Article VIII
Miscellaneous Provisions

§ 161-44 Amendments.

All amendments to this chapter shall be in accordance with the provisions of the Town Law of New York State applicable thereto. Any proposed amendment shall be submitted to the Town Planning Board for a report and recommendation prior to the required public hearing and the final action thereon by the Town Board. At least ten (10) days prior to the date of a public hearing, a notice of the time and place shall appear in the official newspaper of the Town and the Town website. Such notice shall describe the area, boundaries, regulations, or requirements that such proposed change involves.

§ 161-45 Periodic review.

From time to time, at intervals of not more than three years, the Planning Board shall reexamine the provisions of this chapter and the location of district boundary lines and shall submit a report of its findings to the Town Board.

§ 161-46 Geographic limitations.

This chapter is not intended to apply to nor govern, and it shall not be applied to nor govern, in any case, any premises, land, building or event located or occurring wholly within the geographical confines of the Village of Waterford as it shall exist on the date this chapter becomes effective.

§ 161-47 Referrals.

In accordance with the §§ 239-1 and 239-m of the General Municipal Law of New York State, all proposed zoning regulations, or any amendment thereof, which would change the district classification of or the regulations applying to real property lying within areas defined by the aforementioned sections and of proposed special permits or variances affecting lands or buildings within the defined areas shall be referred to the County Planning Agency of Saratoga County for review and comment prior to final action by the appropriate town body.

Article IX
Penalties

§ 161-48 Penalties for offenses.

- A. Any person violating any provision of this chapter shall be subject to a fine of not more than \$350 or imprisonment for not more than six months, or both, for conviction of a first offense; a fine of not less than \$350 nor more than \$700 or imprisonment for not more than six months, or both, for a second offense within a five-year period; and a fine of not less than \$700 nor more than \$1,000 or imprisonment for not more than six months, or both, for a third offense within five-year period. Each week's continued violation shall constitute a separate additional violation. **[Amended 9-1-1987 by L.L. No. 3-1987]**

- B. In addition to other remedies, the Town of Waterford may institute any appropriate action or proceeding to prevent the unlawful erection, construction, alteration or use of any building or land in violation of the requirements of this chapter.

§ 161-49 Knowledge of violation; notice.

- A. No person or persons shall be subject to any penalty under or as a result of this chapter unless it is affirmatively shown that such person was given or had actual knowledge of the provision of this chapter which is alleged that person or persons violated and of the fact that permitting the violation to continue would result in additional penalties.

- B. The Zoning Inspector/Building Inspector, upon his becoming aware thereof, shall serve notice of violation of this chapter on the person or entity committing or permitting the same.

§ 161-50 Correction of violation.

No person or persons shall be considered to have violated this chapter nor shall they be subject to any penalties of this chapter or this article, if it appears that, within 30 days after actual notice to them of the fact there was a violation which they were responsible for remedying, they commenced affirmative action to remedy the violation and pursued it with reasonable diligence.

Article X
Riverbend Section VI

[Added 8-10-1989 by L.L. No. 3-1989]

§ 161-51 Title.

This article provided for the Creation of an R-P Large-Scale Planned District to be known as 'Riverbend Section VI' and is labelled PD Planned District on the Zoning Map.

§ 161-52 Location.

The Riverbend Section VI development is located in the Town of Waterford and is generally bounded by lands of Accurate Concrete to the north; Riverbend Section V and Waterford Flight A Road to the south; Fonda Road to the east; and the Mohawk River to the west and shown on the Zoning Map as PD, Planned Development.

§ 161-53 Reserved

§ 161-54 Permitted construction; boat dockage.

[Amended 5-7-1991; 5-4-1993]

- A. There must be constructed within the area of Riverbend VI a project consisting of up to a maximum of 337 residential units, to be distributed as follows:
- (1) Phase one: 16 single-family units and 32 town homes.
 - (2) Phase two: zero single-family units and 195 town homes.
 - (3) Phase three: 58 single-family units and 36 town homes.
- B. Redistribution of units is allowable upon the specific approval of the Planning Board with the restriction that the number of single-family units may increase by the following formula: each one additional single-family unit results in a reduction of two townhouse units [net loss of one townhouse unit]. The total number of townhouse units may not increase under any event. However, in no event shall accessory structures except for accessory sheds as hereinafter defined and private in-ground swimming pools be permitted on lots in Riverbend. No accessory shed shall have a footprint of more than 100 square feet or shall be more than 12 feet in height. The color of such accessory shed must match, as close as possible, the color of the house to which it is appurtenant. All such accessory sheds must be located in the backyard to minimize visual impact. Drawing a line contiguous and parallel to the back of the house, the line shall always be between the shed and the street abutting the front yard. For dwellings situated on corner lots, a line shall be drawn parallel and contiguous to the side of the dwelling closest to the side street. The line shall be situated between the side street and the accessory shed for the purpose of minimizing visual impact along the side street. All sheds shall be wood frame and have vinyl, aluminum siding or

such other siding as matches the dwelling structure itself, and no shed shall itself be an all-metal shed. Notwithstanding the above, all other setbacks in Town Building Code provisions shall apply to all accessory structures. A boat club consisting primarily of central club facilities and accessory structures for winter storage of piers and slips may also be constructed. In the event that a boat club is constructed, a separate homeowners or similar association shall be established for such boat club.

§ 161-55 Definitions.

As used in this article, the following terms shall have the meanings indicated:

LOT

A defined portion or parcel of land within the development known as "Riverbend Section VI," on which one or more dwelling units may be constructed. All lots shall be used for residential purposes only and shall not be further subdivided.

SINGLE-FAMILY LOT

A lot upon which a single-family unit, including accessory structure permitted in this article, may be built. Each "single-family lot" shall have a minimum lot size of 12,000 square feet; a minimum lot width at the building line of 80 feet; a minimum front yard of 40 feet, except that any lot of which any portion lies within 100 feet of a wetland designated such by the New York State Department of Environmental Conservation shall have a minimum front yard of 35 feet; minimum side yards of 10 feet each, including a minimum of 25 feet for both side yards; a minimum rear yard of 25 feet; and a minimum of two off-street parking spaces exclusive of garages. However, in no event shall the average lot size of lots containing single-family units in Riverbend Section VI be less than 15,000 square feet. Additionally, the lot size of each single-family lot in Riverbend Section VI on the west side of Mallards Landing North, opposite Riverbend Section IV, shall be at least 15,000 square feet.

SINGLE-FAMILY UNIT

A detached building containing one dwelling unit only, with a minimum size of 1,500 square feet exclusive of garages, basements, attics, and porches.

TOWNHOUSE STRUCTURE

A group of townhouse units built upon a lot. There shall be no more than five "townhouse structures" in Riverbend Section VI containing five townhouse units or no "townhouse structure" containing more than five townhouse units. In addition to the front and rear yard requirements of each townhouse unit, each "townhouse structure" shall have two side yards measuring a minimum of 15 feet each; and there shall be a minimum of 30 feet between townhouse structures.

TOWNHOUSE UNIT

A dwelling accommodating or designed to accommodate a single-family in a single-dwelling unit, at least one wall of which shall be in common with the wall of an adjoining dwelling unit and shall be a party or lot line wall. Each "townhouse unit" shall have a minimum unit size of 1,200 square feet exclusive of garages, basements, attics, and porches and shall be built upon a distinct portion of the townhouse lot with a minimum lot size of 2,000 square feet; a minimum lot width at the building line of 20 feet; a minimum front yard of 30 feet; a minimum rear yard of 25 feet; and a minimum of two off-street parking spaces exclusive of garages.

§ 161-56 Fences.

[Amended 5-6-2003 by L.L. No. 7-2003; 8-4-2009 by L.L. No. 14-2009]

No fence shall be erected, placed or altered on any lot unless it consists entirely of wood, stone, concrete, brick, vinyl, wrought iron or aluminum, and in no event shall a fence consist of chain link. On a corner lot, one frontage shall be designated the front and the other the side. In that case, no fence shall be placed in the front yard setback but may be placed in the side yard setback. See also Corner Lot, 161-29.

§ 161-57 Storage of vehicles.

No trailers, mobile homes, recreational vehicles, motor homes, boats, or unregistered motor vehicles shall be stored on any lot or allowed to remain thereon for more than all or part of two days in any calendar year, nor shall the same be allowed to park in any part of the roads or streets extending through Riverbend Section VI. In addition, no outside storage of boats shall be permitted on such lots, nor shall the same be permitted to be parked in such roads or streets.

§ 161-58 Parking of trucks and equipment.

No unlicensed truck, no licensed truck weighing more than 4,000 pounds and no machinery or other business or commercial equipment shall be allowed to park in any part of a road or street extending through Riverbend Section VI or on any of the lots, except for short-term loading or unloading and servicing of the premises, and except in connection with construction activities relating to single-family units, townhouse units or other buildings or structures in Riverbend Section VI. The Town Highway Superintendent shall post all roads or streets, including portions thereof, as necessary to indicate and enforce such parking restrictions.

§ 161-59 Dedication of open space.

Certain open space as shown on Exhibit B attached hereto will be dedicated to the Town for use as open space or a Town park. Once individual lots in the vicinity of such open space or Town park have been surveyed and legally described by a New York State licensed surveyor, a survey and legal description for such open space or Town park shall be completed by a New York State licensed surveyor for a parcel of 13 acres which substantially conforms to the configuration depicted in Exhibit B. Such dedication shall take place no later than 60 days from the date the developer has obtained the 100th certificate of occupancy for Riverbend Section VI Phase II and access shall be provided in accordance with § **161-61** of this article. The developer shall, at its

expense and as soon as practical thereafter, improve such dedicated town park or open space to include a baseball field or soccer field and/or an equipment storage building and/or playground equipment as determined by the Town of Waterford Youth Council. In the event that the Town of Waterford Youth Council determines a baseball field shall be established, the developer shall pay all reasonable expenses to provide a baseball diamond, two dugouts and a backstop. In the event that such Youth Council determines a soccer field shall be established, the developer shall pay all reasonable expenses to provide a graded and seeded field and two goals with appropriate netting.

§ 161-60 Design and construction of units.

All single-family units and townhouse units shall be designed and constructed in compliance with applicable state and local requirements and pursuant to plans and specifications certified by an architect or engineer, as may be appropriate in each case, duly licensed to practice in New York State.

§ 161-61 Construction prerequisites.

In no event shall construction begin on the land surrounded by the lands of New York State, which constitutes the island portion of Riverbend Section VI, until the developer has obtained title to the necessary lands or permanent easements from either the New York State Department of Transportation (DOT) or the New York State Office of General Services (OGS), as the case may be, to construct accessways to the island portion of Riverbend Section VI; and the New York State Department of Environmental Conservation has granted any necessary approvals related to the island portion of Riverbend Section VI. In the event that the developer does not obtain such title or permanent easements, the town shall obtain from DOT or OGS a right of access to the dedicated town park described in § **161-59** of this article. In such event, the developer shall pay all reasonable expenses incurred by the town to obtain such access.

§ 161-62 Streets and roads.

All roads and streets within Riverbend Section VI shall be paved. In addition, all roads and/or streets which shall be dedicated to the town pursuant to this article shall be constructed in accordance with town specifications for such roads or streets in effect at the time of subdivision approval of the phase in which said road or street is located.

§ 161-63 Connection to water and sewer facilities.

- A. Each lot of Riverbend Section VI shall be connected to public or municipal water and sewage facilities in accordance with applicable regulations, at the expense of the developer.
- B. The developer agrees that prior to filing with the Saratoga County Clerk subdivision maps or plans for Riverbend Section VI Phase II or prior to issuance of a building permit for the 49th housing unit in Riverbend Section VI regardless of phase, whichever shall first occur, the developer shall post with the Water Commissioners of the Town of Waterford, a body corporate, a bond in the amount of \$134,800 in form and content satisfactory to the Commissioners and written by an acceptable bonding company, unqualifiedly guaranteeing

payment of that amount in cash to the Commissioners, or at the developer's option in lieu of a bond pay a full cash payment of \$134,800 upon the earlier to occur of the following:

- (1) Notice by the Commissioners of commencement of installation or construction work by them or on their behalf for water storage improvements and/or expansion in the area of the Town of Waterford northwest of the Village of Waterford, generally known as "Fonda-Middletown Roads area";
 - (2) Completion of Riverbend Section VI Phase II; or
 - (3) Six years from the date of enactment of this article.
- C. The Water Commissioners shall notify the developer by registered or certified mail at least 15 days prior to any claim it intends to make against any posted bond.
- D. Should the developer be mandated by the State Department of Health, or a similar governmental agency, or itself to install water storage facilities within the Planned Development District and should it do so solely at its own expense, then and in that event, if the Commissioners find such mandated installation by the developer has been of such character or utility that it reduces actual expense the Commissioners would otherwise incur, the Commissioners will agree to reduction of the amount of the specified bond (or cash payment) to the extent they determine their own expense has actually been reduced, provided that any such mandated installation by the developer has been accomplished in a fashion consistent with the Commissioners' requirements for their system and that title and ownership of any facilities so installed by the developer are, upon the request of the Commissioners, turned over to the Commissioners at no cost or expense to them.

§ 161-64 Traffic signals.

A traffic signal shall be installed no later than the date of completion of Riverbend Section VI Phase II construction, at the expense of the developer, at the intersection of Fonda and Middletown Roads in the vicinity of the Town of Waterford/Town of Halfmoon town line. The timing of such installation as well as the traffic signal construction design shall be subject to the approval of the Commissioner of the Saratoga County Department of Public Works.

§ 161-65 Applicability of zoning provisions.

Section **161-32** of the Zoning Law, to the extent not amended by or not inconsistent with this article, shall remain in full force and effect and shall apply to Riverbend Section VI.

§ 161-66 Building permits; subdivision and site plan approval; hearing.

- A. Prior to the issuance of building permits for the project or any phase thereof, the developer shall, where applicable, obtain subdivision approval in accordance with the Town of Waterford Subdivision Regulations and, when required, site plan approval in accordance with Town of Waterford Local Law No. 4, 1986.

- B. The Planning Board shall approve for the project or each phase thereof a series of different townhouse unit plans during an integrated approval process and shall limit its consideration to the following items: adequacy and arrangement of vehicular and pedestrian traffic access and circulation; building plans; location, arrangement and appearance of off-street parking and loading; adequacy, type and arrangement of visual and noise buffers; adequacy of landscaping and vegetation; fire lanes and other emergency zone design considerations; overall compatibility with affected neighborhoods; and character of the land. Applications, plans, and other documentation submitted by the developer must cover such enumerated items and, to the extent possible, contain other pertinent information necessary to obtain both subdivision and site plan approvals.
- C. A public hearing shall be held on the preliminary application, plans and other documentation submitted within 45 days from the date the preliminary application is submitted to the Planning Board. Such public hearing shall be held upon a minimum of five days' public notice in a local paper of general circulation. The Planning Board shall render a decision within 45 days of the public hearing. Final plans which are in substantial compliance with preliminary plans approved by the Planning Board must be submitted by the developer or its representative(s) within six months from the date of preliminary approval. In the event that the developer does not timely submit such final plans, the Planning Board shall have the right to grant extensions or waivers as it deems appropriate without a public hearing or to revoke all preliminary approval(s). Once final plans are submitted, the Planning Board shall render a decision on the final plan(s) within 45 days after any further public hearing. In no event, however, shall the failure to obtain such approvals for one construction phase impair the developer's rights with respect to any other construction phase for which the developer has obtained building permits.

§ 161-67 Applicability of other regulations.

The Town of Waterford Subdivision Regulations and Town of Waterford Local Law No. 4, 1986, relating to site plan review, to the extent not amended by or not inconsistent with this article, shall remain in full force and effect and shall apply to Riverbend Section VI.

§ 161-68 Applicability of state law.

Sections 274-a, 276 and 277 of the Town Law of the State of New York shall be superseded by this article to the extent permitted by law and shall not apply to Riverbend Section VI.

§ 161-69 Change of tenancy or ownership.

Any conditions imposed by the Town Board and/or the Planning Board, including those the performance of which are precedent to the issuance of any permit necessary for the development or any part thereof, shall not lapse or be waived as a result of any subsequent change in the tenancy or ownership of any or all of said areas.

§ 161-70 Conditions for revocation.

This Article shall be deemed revoked and the previous regulations and laws shall apply if, within

one year from the approval of the Planning Board for construction of the project, commencement of roadway construction in Riverbend Section VI has not begun, or if the development is not completed within 10 years from such approval. As to the area within which a building or buildings have been constructed pursuant to this article, there shall be no revocation of this article, and as to said area and building or buildings, this article shall continue in full force and effect and the area zoned by this article shall be the area within which said building or buildings were constructed pursuant to this article. The Town Board may extend or waive, for good cause, either the one-year period or the ten-year period or both, said extension or waiver not to be unreasonably withheld. Any such extension of time or waiver may be granted by the Town Board without a public hearing.

Article XI
Stormwater Control

[Added 12-29-2008 by L.L. No. 10-2008; amended 12-1-2015 by L.L. No. 2-2015]

§ 161-71 Definitions.

The terms used in this article and Chapter **142**, Stormwater Management and Erosion and Sediment Control, or in documents prepared or reviewed under this article and Chapter **142**, Stormwater Management and Erosion and Sediment Control, shall have the meaning as set forth in this section.

AGRICULTURAL ACTIVITY

The activity of an active farm, including grazing and watering livestock, irrigating crops, harvesting crops, using land for growing agricultural products, and cutting timber for sale, but shall not include the operation of a dude ranch or similar operation, or the construction of new structures associated with agricultural activities.

APPLICANT

A property owner or agent of a property owner who has filed an application for a land development activity.

BUILDING

Any structure, either temporary or permanent, having walls and a roof, designed for the shelter of any person, animal, or property, and occupying more than 100 square feet of area.

CHANNEL

A natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

CLEARING

Any activity that removes the vegetative surface cover.

DEDICATION

The deliberate appropriation of property by its owner for general public use.

DEPARTMENT

The New York State Department of Environmental Conservation.

DESIGN MANUAL

The New York State Stormwater Management Design Manual, most recent version, including applicable updates, that serves as the official guide for stormwater management principles, methods, and practices.

DEVELOPER

A person who undertakes land development activities.

EROSION CONTROL MANUAL

The most recent version of the New York Standards and Specifications for Erosion and Sediment Control manual, commonly known as the "Blue Book."

GRADING

Excavation or fill of material, including the resulting conditions thereof.

IMPERVIOUS COVER

Those surfaces, improvements and structures that cannot effectively infiltrate rainfall, snow melt and water (e.g., building rooftops, pavement, sidewalks, driveways, etc.).

INDUSTRIAL STORMWATER PERMIT

A State Pollutant Discharge Elimination System permit issued to a commercial industry or group of industries which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.

INFILTRATION

The process of percolating stormwater into the subsoil.

JURISDICTIONAL WETLAND

An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as "hydrophytic vegetation."

LAND DEVELOPMENT ACTIVITY

Construction activity, including clearing, grading, excavating, soil disturbance or placement of fill, that results in land disturbance of equal to or greater than one acre, or activities disturbing less than one acre of total land area that is part of a larger common plan of development or sale, even though multiple separate and distinct land development activities may take place at different times on different schedules.

LANDOWNER

The legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

MAINTENANCE AGREEMENT

A legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management practices.

NONPOINT SOURCE POLLUTION

Pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal, and urban runoff sources.

PHASING

Clearing a parcel of land in distinct pieces or parts, with the stabilization of each piece completed before the clearing of the next.

POLLUTANT OF CONCERN

Sediment or a water quality measurement that addresses sediment (such as total suspended solids, turbidity, or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the land development activity.

PROJECT

Land development activity.

RECHARGE

The replenishment of underground water reserves.

SEDIMENT CONTROL

Measures that prevent eroded sediment from leaving the site.

SENSITIVE AREAS

Cold-water fisheries, shellfish beds, swimming beaches, groundwater recharge areas, water supply reservoirs, habitats for threatened, endangered or special concern species.

SPDES GENERAL PERMIT FOR CONSTRUCTION ACTIVITIES GP-02-01

A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to developers of construction activities to regulate disturbance of one or more acres of land.

SPDES GENERAL PERMIT FOR STORMWATER DISCHARGES FROM MUNICIPAL SEPARATE STORMWATER SEWER SYSTEMS GP-02-02

A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to municipalities to regulate discharges from municipal separate storm sewers for compliance with EPA-established water quality standards and/or to specify stormwater control standards.

STABILIZATION

The use of practices that prevent exposed soil from eroding.

STOP-WORK ORDER

An order issued which requires that all construction activity on a site be stopped.

STORMWATER

Rainwater, surface runoff, snowmelt, and drainage.

STORMWATER HOTSPOT

A land use or activity that generates higher concentrations of hydrocarbons, trace metals or toxicants than are found in typical stormwater runoff, based on monitoring studies.

STORMWATER MANAGEMENT

The use of structural or nonstructural practices that are designed to reduce stormwater runoff and mitigate its adverse impacts on property, natural resources, and the environment.

STORMWATER MANAGEMENT FACILITY

One or a series of stormwater management practices installed, stabilized and operating for the purpose of controlling stormwater runoff.

STORMWATER MANAGEMENT OFFICER

An employee or officer designated by the municipality to accept and review stormwater pollution prevention plans, forward the plans to the applicable municipal board and inspect stormwater management practices.

STORMWATER MANAGEMENT PRACTICES (SMPs)

Measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing flood damage and preventing or reducing point source or non-point source pollution inputs to stormwater runoff and water bodies.

STORMWATER POLLUTION PREVENTION PLAN (SWPPP)

A plan for controlling stormwater runoff and pollutants from a site during and after construction activities.

STORMWATER RUNOFF

Flow on the surface of the ground, resulting from precipitation.

SURFACE WATERS OF THE STATE OF NEW YORK

Lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic Ocean within the territorial seas of the State

of New York and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction. Storm sewers and waste treatment systems, including treatment ponds or lagoons which also meet the criteria of this definition, are not waters of the state. This exclusion applies only to man-made bodies of water which neither were originally created in waters of the state (such as a disposal area in wetlands) nor resulted from impoundment of waters of the state.

WATERCOURSE

A permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

WATERWAY

A channel that directs surface runoff to a watercourse or to the public storm drain.

§ 161-72 Stormwater pollution prevention plans.

- A. Stormwater pollution prevention plan requirement. No application for approval of a land development activity shall be reviewed until the appropriate board has received a stormwater pollution prevention plan (SWPPP) prepared in accordance with the specifications in this article and Chapter **142**, Stormwater Management and Erosion and Sediment Control.
- B. Contents of stormwater pollution prevention plans.
- (1) All SWPPPs shall provide the following background information and erosion and sediment controls:
- (a) Background information about the scope of the project, including location, type, and size of project;
 - (b) Site map/construction drawing(s) for the project, including a general location map. At a minimum, the site map should show the total site area; all improvements; areas of disturbance; areas that will not be disturbed; existing vegetation; on-site and adjacent off-site surface water(s); wetlands and drainage patterns that could be affected by the construction activity; existing and final slopes; locations of off-site material, waste, borrow or equipment storage areas; and location(s) of the stormwater discharge(s); site maps shall be at a scale no smaller than one inch equals 100 feet (e.g., one inch equals 500 feet is smaller than one inch equals 100 feet);
 - (c) Description of the soil(s) present at the site;

- (d) Construction phasing plan describing the intended sequence of construction activities, including clearing and grubbing, excavation and grading, utility and infrastructure installation and any other activity at the site that results in soil disturbance. Consistent with the New York Standards and Specifications for Erosion and Sediment Control (Erosion Control Manual), not more than five acres shall be disturbed at any one time unless pursuant to an approved SWPPP;
- (e) Description of the pollution prevention measures that will be used to control litter, construction chemicals and construction debris from becoming a pollutant source in stormwater runoff;
- (f) Description of construction and waste materials expected to be stored on-site with updates as appropriate, and a description of controls to reduce pollutants from these materials, including storage practices to minimize exposure of the materials to stormwater, and spill prevention and response;
- (g) Temporary and permanent structural and vegetative measures to be used for soil stabilization, runoff control and sediment control for each stage of the project, from initial land clearing and grubbing to project close-out;
- (h) A site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and sediment control practice;
- (i) Dimensions, material specifications and installation details for all erosion and sediment control practices, including the siting and sizing of any temporary sediment basins;
- (j) Temporary practices that will be converted to permanent control measures;
- (k) Implementation schedule for staging temporary erosion and sediment control practices, including the timing of initial placement and duration that each practice should remain in place;
- (l) Maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practice;
- (m) Name(s) of the receiving water(s);
- (n) Delineation of SWPPP implementation responsibilities for each part of the site;
- (o) Description of structural practices designed to divert flows from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants from exposed areas of

the site to the degree attainable; and

- (p) Any existing data that describes the stormwater runoff at the site.
- (2) Land development activities as defined in § **161-71** of this article and meeting Condition A, B or C below shall also include water quantity and water quality controls (post-construction stormwater runoff controls) as set forth in Subsection **B(3)** below as applicable:
- (a) Condition A: stormwater runoff from land development activities discharging a pollutant of concern to either an impaired water identified on the Department's 303(d) list of impaired waters or a total maximum daily load (TMDL) designated watershed for which pollutants in stormwater have been identified as a source of the impairment.
 - (b) Condition B: stormwater runoff from land development activities disturbing five or more acres.
 - (c) Condition C: stormwater runoff from land development activity disturbing between one acre and five acres of land during the course of the project, exclusive of the construction of single-family residences and construction activities at agricultural properties.
- (3) SWPPP requirements for Conditions A, B and C:
- (a) All information in Subsection **B(1)** of this article and Chapter **142**, Stormwater Management and Erosion and Sediment Control.
 - (b) Description of each post-construction stormwater management practice.
 - (c) Site map/construction drawing(s) showing the specific location(s) and size(s) of each post-construction stormwater management practice.
 - (d) Hydrologic and hydraulic analysis for all structural components of the stormwater management system for the applicable design storms.
 - (e) Comparison of post-development stormwater runoff conditions with pre-development conditions.
 - (f) Dimensions, material specifications and installation details for each post-construction stormwater management practice.
 - (g) Maintenance schedule to ensure continuous and effective operation of each post-

construction stormwater management practice.

- (h) Maintenance easements to ensure access to all stormwater management practices at the site for the purpose of inspection and repair. Easements shall be recorded on the plan and shall remain in effect with transfer of title to the property.
 - (i) Inspection and maintenance agreement binding on all subsequent landowners served by the on-site stormwater management measures in accordance with § **161-74**.
 - (j) The SWPPP shall be prepared by a landscape architect, certified professional or professional engineer and must be signed by the professional preparing the plan, who shall certify that the design of all stormwater management practices meets the requirements in this article and Chapter **142**, Stormwater Management and Erosion and Sediment Control.
- C. Other environmental permits. The applicant shall assure that all other applicable environmental permits have been or will be acquired for the land development activity prior to approval of the final stormwater design plan.
- D. Contractor certification.
- (1) Each contractor and subcontractor identified in the SWPPP who will be involved in soil disturbance and/or stormwater management practice installation shall sign and date a copy of the following certification statement before undertaking any land development activity: "I certify under penalty of law that I understand and agree to comply with the terms and conditions of the Stormwater Pollution Prevention Plan. I also understand that it is unlawful for any person to cause or contribute to a violation of water quality standards."
 - (2) The certification must include the name and title of the person providing the signature, address, and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date the certification is made.
 - (3) The certification statement(s) shall become part of the SWPPP for the land development activity.
- E. A copy of the SWPPP shall be retained at the site of the land development activity during construction, from the date of initiation of construction activities to the date of final stabilization.

§ 161-73 Performance and design criteria.

All land development activities shall be subject to the following performance and design criteria:

- A. Technical standards. For the purpose of this article and Chapter **142**, Stormwater Management and Erosion and Sediment Control, the following documents shall serve as the official guides and specifications for stormwater management. Stormwater management practices that are designed and constructed in accordance with these technical documents shall be presumed to meet the standards imposed by this article and Chapter **142**, Stormwater Management and Erosion and Sediment Control:
- (1) The New York State Stormwater Management Design Manual (New York State Department of Environmental Conservation, most current version or its successor, hereafter referred to as the "Design Manual").
 - (2) New York Standards and Specifications for Erosion and Sediment Control (Empire State Chapter of the Soil and Water Conservation Society, 2004, most current version or its successor, hereafter referred to as the "Erosion Control Manual").
- B. Equivalence to technical standards. Where stormwater management practices are not in accordance with technical standards, the applicant or developer must demonstrate equivalence to the technical standards set forth in Subsection **A(1)** and the SWPPP shall be prepared by a licensed professional.
- C. Water quality standards. Any land development activity shall not cause an increase in turbidity that will result in substantial visible contrast to natural conditions in surface waters of the State of New York.

§ 161-74 Maintenance, inspection and repair of stormwater facilities.

- A. Maintenance and inspection during construction.
- (1) The applicant or developer of the land development activity shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the applicant or developer to achieve compliance with the conditions of this article and Chapter **142**, Stormwater Management and Erosion and Sediment Control. Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by 50%.
 - (2) For land development activities as defined in § **161-71** of this article and meeting Condition A, B or C in § **161-72B(2)**, the applicant shall have a qualified professional conduct site inspections and document the effectiveness of all erosion and sediment control practices every seven days and within 24 hours of any storm event producing 0.5 inch of precipitation or more. Inspection reports shall be maintained in a site logbook.
 - (3) The applicant or developer or its representative shall be on site at all times when construction or grading activity takes place and shall inspect and document the

effectiveness of all erosion and sediment control practices.

- B. Maintenance easement(s). Prior to the issuance of any approval that has a stormwater management facility as one of the requirements, the applicant or developer must execute a maintenance easement agreement that shall be binding on all subsequent landowners served by the stormwater management facility. The easement shall provide for access to the facility at reasonable times for periodic inspection by the Town of Waterford to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this article and Chapter **142**, Stormwater Management and Erosion and Sediment Control. The easement shall be recorded by the grantor in the office of the County Clerk after approval by the counsel for the Town of Waterford.
- C. Maintenance after construction. The owner or operator of permanent stormwater management practices installed in accordance with this article and Chapter **142**, Stormwater Management and Erosion and Sediment Control, shall be operated and maintained to achieve the goals of this article and Chapter **142**, Stormwater Management and Erosion and Sediment Control. Proper operation and maintenance also includes, as a minimum, the following:
 - (1) A preventive/corrective maintenance program for all critical facilities and systems of treatment and control (or related appurtenances) which are installed or used by the owner or operator to achieve the goals of this article and Chapter **142**, Stormwater Management and Erosion and Sediment Control.
 - (2) Written procedures for operation and maintenance and training new maintenance personnel.
 - (3) Discharges from the SMPs shall not exceed design criteria or cause or contribute to water quality standard violations in accordance with § **161-73B**.
- D. Maintenance agreements. The Town of Waterford shall approve a formal maintenance agreement for stormwater management facilities binding on all subsequent landowners and recorded in the office of the County Clerk as a deed restriction on the property prior to final plan approval. The maintenance agreement shall be consistent with the terms and conditions of Schedule B of this chapter, entitled "Sample Stormwater Control Facility Maintenance Agreement." The Town of Waterford, in lieu of a maintenance agreement, at its sole discretion may accept dedication of any existing or future stormwater management facility, provided such facility meets all the requirements of this article and Chapter **142**, Stormwater Management and Erosion and Sediment Control, and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

Article XII
Waterfront Overlay District

[Added 3-3-2009 by L.L. No. 10-2009]

§ 161-75 Purpose and intent.

- A. The Town intends to protect the scenic corridors along the Erie and Champlain Canal Systems and Hudson and Mohawk Rivers, in accordance with the Local Waterfront Revitalization Program (LWRP), the Town of Waterford Comprehensive Plan as well as regional and state canal and river plans and goals. The purpose of the district is to maintain the undeveloped areas of the waterfronts and to provide a consistent level of protection of the visual, environmental, and historic resources within the LWRP boundaries.

- B. The Waterfront Overlay (WO) District has been overlaid onto existing zoning districts. All provisions of the underlying districts remain in full force, except where provisions of the WO District differ. In such cases, the more restrictive provision shall apply. The principal control mechanisms of the WO are construction setbacks from the waterline, restriction on the removal of natural vegetation within an established buffer zone adjacent to the waterline, restrictions on the removal of natural vegetation within an established buffer zone adjacent to the water, and performance standards governing land use activities within the District.

- C. The specific purposes of this district include the following:
 - (1) To preserve the existing community character and land use pattern;
 - (2) To capitalize on opportunities to provide additional public access to the Hudson and Mohawk Rivers and Erie and Champlain Canal systems;
 - (3) To pursue funding sources for recreational improvements;
 - (4) To maintain and improve the angling potential and water quality of the Hudson and Mohawk Rivers;
 - (5) To minimize potentially adverse land uses, environmental and economic impacts that would result from proposed development; and
 - (6) To protect stable residential areas.

§ 161-76 Boundary of overlay zone.

The Waterfront Overlay Zone shall be the boundaries of the Local Waterfront Revitalization Program. The Overlay Zone is delineated on the Zoning Map. The Map entitled "LWRP

Boundary" also illustrates the boundary of the LWRP.

§ 161-77 Permitted uses.

The underlying zoning district determines the permitted uses, accessory uses, and special permit uses within the Waterfront Overlay District. Underlying districts within the WO include R-75, R-100, C-I, C-2, Industrial, Manufacturing, and Land Conservation.

§ 161-78 Development regulations.

A. Setback requirements.

- (1) The minimum setback from the highwater mark of the Erie and Champlain Canal shall be 75 feet for principal and accessory buildings.
- (2) The minimum setback from the high-water mark of the Mohawk and Hudson Rivers shall be 100 feet for principal and accessory buildings.
- (3) Structures demonstrated to be directly related to canal and river business/use may be authorized within the required setback distance; in granting such authorizations, the Planning Board shall minimize any adverse impacts by imposing reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property.

B. Additional requirements and standards.

- (1) Fences, parking, and signs shall not detract from water views and are subject to regulations contained in §§ **161-29**, **161-30**, and 161-31, respectively.
- (2) Development shall not interfere with or in any way prohibit, hinder, or discourage the public use of trails along the canals and rivers. Opportunities for trail links between recreational trails and proposed pedestrian walkways in new developments should be established.
- (3) Density of development in the WO shall be the same as in the underlying zoning district.

C. Site plan review.

- (1) Any proposed principal building or any proposed or expanded paved area of greater than 5,000 square feet that would be partially or entirely located within the boundaries of the Waterfront Overlay shall be submitted for review by the Planning Board.
- (2) The Planning Board shall review such use to determine compliance with municipal ordinances or laws and to determine the compatibility with the Local Waterfront Revitalization Program and the Comprehensive Plan.

- (3) A public right-of-way shall be maintained between the canal or river shoreline and the residential property line to allow for continued visual and physical public access. The width of the right-of-way shall correspond to existing land conservation district boundaries established in Town of Waterford Zoning Law. In areas where such boundaries have not been established, Town Planning Board shall use their discretion, using similar areas elsewhere in Waterford as a guide. Residential uses shall be clustered to maximize the use and enjoyment of open space.
- (4) Development that is proposed in the area along the Mohawk River above and below Cohoes Falls, preference will be given to water-dependent or water-enhanced uses where appropriate, and other related uses that rely, depend on, or can capitalize on a waterfront location.
- (5) The following development guidelines shall be considered for all proposed development within the Waterfront Overlay District requiring Planning Board review:
 - (a) All new development shall be integrated into the existing landscape so as to minimize its visual impact and maintain the natural beauty and environmentally sensitive shoreline areas, including steep slopes through erosion control and the use of vegetative and structural screening, landscaping, and grading. Existing vegetation shall be maintained to the maximum extent feasible. Natural shoreline features shall be stabilized primarily through maintenance of vegetation where needed. The Planning Board will ensure that non-point source pollution that may be caused from new development is prevented or mitigated through implementation of best management practices. These may include avoiding development on steep slopes, limiting clearing in floodplains, and using appropriate stormwater pollution prevention methods. Projects shall be designed in ways that will result in the least potential damage to wildlife and fishery habitats. The Planning Board may require adequate buffers to be provided and maintained between wetlands and adjacent uses.
 - (b) All development shall have a pedestrian scale, e.g., street-side and waterfront building facades shall be oriented to pedestrian passersby and shall include plans to provide for pedestrian links to existing trails, recreational areas, and waterfront areas to the maximum extent feasible.
 - (c) Ground floors of buildings for commercial use shall be encouraged for such active uses as restaurants, retail, and indoor recreation, especially when adjacent to public spaces.
 - (d) Density pattern of new development shall complement current adjacent development and the unique historic environment.

- (e) Length of proposed contiguous structures shall be planned so as to establish and protect view corridors to the waterfront.
- (f) Coverage and building height requirements may be modified in specific instances so long as the overall development is consistent with goals and other design standards.
- (g) Development of new buildings should preserve the character of existing streets and buildings.
- (h) Architecture and design of buildings, structures and spaces shall be in keeping with the height, scale, density, and character of adjoining neighborhoods. Street networks shall be continuous, pedestrian friendly and facilitate public gathering spaces.
- (i) The overall facade shall have a simple and complementary pattern to neighboring or typical buildings and shall be kept consistent across the building front but may show deviation at important points to highlight the center of the building or the entryway(s) to the building.
- (j) Facades shall be designed as to appear inviting from both the street side and the waterfront side of the building without creating a "back door" appearance to either side.
- (k) Site development shall also, to the maximum extent practical, limit or minimize alterations to historic resources, ensure that new features added to historic buildings are consistent with the historic elements so that the size, scale, proportion, mass, and spatial relationship are compatible with the historic resource, and that the design uses materials, features, forms, details, textures, and colors compatible with similar features of the historic resource.

Article XIII Special Use Permits

§ 161-79 Special use permits Procedures and Application Requirements.

- A. Authorization to grant or deny Special Uses. The Town Board authorizes the Planning Board to grant or deny special uses in accordance with the requirements set forth in this Article. No use listed in this law as requiring a special use permit may be permitted, enlarged, or altered unless approved first by the Planning Board. All applications that require special use permit approval shall also require site plan review and approval conducted concurrently.
- B. Applications for special use. Any application for a special use permit shall be made in writing. The application and required information shall be delivered to the Planning Board Chair at least ten (10) days prior to the date of the next regular meeting of the Planning Board. Time frames outlined in this section shall not initiate until the Planning Board has deemed the application complete. Seven copies of the application and required information as set forth below shall be submitted.
- (1) The application must include an Environmental Assessment Form (EAF) and all necessary documentation to comply with State Environmental Quality Review Act, Part 617 (SEQRA). No application shall be deemed complete until a Determination of No Significance has been made, or until a Draft Environmental Impact Statement has been accepted by the lead agency as satisfactory with respect to scope, content, and adequacy.
 - (2) Fees. Fees for the special use permit application shall be in accordance with any fees established by the Town of Waterford. All application fees as may be established by the Town Board are in addition to any required escrow fees.
 - (3) Expenses. The applicant shall be responsible for the total cost of environmental reviews determined to be necessary to meet requirements of SEQRA as per 6NYCRR Part 617.13. The Planning Board may also incur other expenses in order to properly review documents or conduct special studies in connection with the proposed application including but not limited to the reasonable costs incurred for private consultation fees, fees for technical and engineering services, legal fees, or other expenses in connection with the review of a special use permit application. All fees shall be established by the Planning Board and charged to the applicant. The Planning Board shall make a reasonable estimate of the amount of expenses that it expects to incur during the course of each application for a special use permit. The amount so determined shall be deposited by the applicant in an escrow account established with the Town Clerk prior to the Planning Board's commencing any review of the application. If the amount that is deposited is exhausted or diminished to the point that the Planning Board determines that the remaining amount will not be sufficient to complete the review of the application, then the Planning Board shall notify the applicant of the additional amount that must be deposited with the Town Clerk. If the applicant fails to replenish the escrow account or there are unpaid amounts for which the applicant is responsible, the Planning Board, in

its discretion, may cease review of the application until such amounts are paid or deny the application. In no event, however, shall any special use permit be approved until such sums have been paid in full.

- (4) Informal consultation. Prior to submission of a formal application, applicants are encouraged to meet with the Town Building Inspector to review submission requirements. Applicants are also encouraged, but not required, to discuss the proposal with abutting landowners to ascertain any issues early in the application process.

C. Procedures

- (1) Coordination with Site Plan. The Planning Board shall review site plans and special use permit applications concurrently. All procedural and submission requirements shall be coordinated so as not to delay review and decision-making. In order to facilitate this coordination, any required information from Article XIV of this Chapter (Site Plan Review) shall accompany the special use permit application.
- (2) Area variance. Where a proposed special use permit contains one or more features which do not comply with the zoning regulations, application may be made to the Zoning Board of Appeals for an area variance pursuant to Section 180-65, without the necessity of a decision or determination by the Building Inspector.
- (3) Use variance. All use variance applications to the Zoning Board of Appeals shall be made only after denial of a permit by the Building Inspector.
- (4) Public Hearing Required. The Planning Board shall determine whether an application is complete or not. Within sixty-two (62) days of receipt of a completed Town of Waterford application, the Planning Board shall hold a public hearing. Notice of the public hearing shall be published in the official newspaper at least five (5) days prior to the date set for public hearing and posted on Town website. The Planning Board shall send, or cause to be sent, notice of the Public Hearing to all current property owners adjacent to, directly opposite, or within 500 feet of the applicant's property. Notice shall be mailed, by the applicant, certified mail return receipt requested, at least 10 calendar days prior to the hearing. The applicant shall submit the certified mail receipts to the Planning Board prior to the opening of the public hearing. The Planning Board shall also give notice to an adjacent municipality at least 10 days prior to when a hearing is held by the Planning Board related to special use permit approval on property that is within five hundred feet of an adjacent municipality as per GMU 239-NN.
- (5) Notice to Applicant and Saratoga County Planning Board. At least ten (10) days before such hearing, the Planning Board shall mail public hearing notices for the application to the applicant and to the Saratoga County Planning Board as required by Section 239-m of the New York State General Municipal Law, which shall be accompanied by a full statement of such proposed action. The County referral shall apply to real property within 500 feet of the following:

- (a) The boundary of any village or town; or
 - (b) The boundary of any existing or proposed county or state park or other recreation area; or
 - (c) The right-of-way of any existing or proposed county or state parkway, thruway, expressway, road, or highway; or
 - (d) The existing or proposed right-of-way of any stream or drainage channel owned by the county or for which the county has established channel lines; or
 - (e) The existing or proposed boundary of any county or state-owned land on which a public building or institution is situated; or
- (6) SEQRA. The Planning Board shall comply with the provisions of the New York State Environmental Quality Review Act under Article 8 of the Environmental Conservation Law and its implementing regulations. An application shall not be deemed complete until a Negative Declaration has been adopted, or until a draft environmental impact statement has been accepted by the lead agency as satisfactory with respect to scope, content, and adequacy.
- (7) Other Agency Review. In its review, the Planning Board may consult with the Town Highway Superintendent and may consult with local emergency personnel or other agencies and professionals such as, but not limited to, an engineer, attorney, surveyor, or land use/environmental planner and other Town and county officials and boards, as well as with representatives of federal and state agencies, including the Soil and Water Conservation District, the United States Army Corps of Engineers or the New York State Department of Environmental Conservation. All fees related to consultation with professionals shall be borne by the applicant.
- (8) The Planning Board shall require proof that all permits required by other agencies have been applied for prior to final approval. The Planning Board may approve a special use permit application contingent upon final approval of such application by other agencies. The Building Inspector shall ensure that all other agency approvals have been received and all conditions required by the Planning Board are met prior to issuing a building permit. Such zoning permit shall be approved prior to the Building Inspector issuing a building permit.
- (9) Decisions
- (a) Time of decision. The Planning Board shall decide upon the special use permit application within sixty-two (62) days after the close of the public hearing, subject to compliance with the requirements of SEQRA and the New York State General Municipal Law Sections 239-m. The time within which the Planning Board must render its decision may be extended by mutual consent of the applicant and the Planning Board.
 - (b) Type of Decision. In rendering its decision, the Planning Board shall approve, disapprove or approve with modifications and conditions the special use permit

application. In authorizing the issuance of a special use permit, the Planning Board has the authority to impose such reasonable conditions and restrictions as are directly related to, and incidental to, the proposed special use. The Planning Board shall impose additional conditions and safeguards to the special permit use as are directly related to and incidental to the proposed special use permit and which may be necessary to assure continual conformance to all applicable standards and requirements, including reasonable assurance that these conditions and safeguards can be responsibly monitored and enforced. Restrictions and/or conditions may include those related to design of structures or operation of the use necessary either to ensure compatibility with the surrounding uses or to protect the resources of the Town. The Planning Board's decision shall be in writing and shall include an explanation in reasonable detail of the basis for the Board's decision and shall also set forth all conditions which apply to the special permit, if granted. Upon its granting of said special use permit, any such conditions must be met before issuance of permits by the Building Inspector.

- (c) Filing. The decision of the Planning Board shall be filed in the office of the Town Clerk within five (5) business days of the date such decision is rendered, and a copy thereof shall be mailed to the applicant and also provided to the Building Inspector.
- (d) A special use permit shall be deemed to authorize only the particular special use or uses permitted. Once a special use permit has been granted, it shall apply to the approved use on that parcel regardless of ownership, as well as to any subsequent use of the property in the same use category as per the Use Table for that district, provided that such use has no greater impact on adjoining properties, complies with all terms and conditions of the special use permit, and does not involve new construction, enlargement, exterior alteration of existing structures, increased parking, or other changed use of outdoor areas, or lapses in use.

D. Lapses, Revocation and Expiration.

- (1) Special use permits will expire if the applicant fails to obtain a building permit or fails to comply with the conditions of the special use permit, unless other provisions are set forth by the Planning Board in connection with its approval, within 18 months after approval.
- (2) A special permit may be revoked by the Planning Board if, after notice to the holder of the permit and an opportunity for hearing, it is determined that the conditions of the special use permit have been violated.
- (3) A special use permit will expire if the special use or uses shall cease for more than three years for any reason. If a use subject to an approved special use permit had been in continual operation but has since lapsed in operation for more than three years between Planning Board approval and re-initiation of such use, the Planning Board shall require a review of such use prior to reinstatement to ensure that all original conditions of the special use permit are still valid. In either case, the Planning Board may, after review, reinstate, or reinstate with conditions such lapsed use. Such Planning Board review shall be initiated through action by the Building Inspector.

- (4) Any violation of the conditions of a special use permit or a violation of any applicable performance criteria of this chapter shall be deemed a violation of this chapter and shall be subject to enforcement as provided in this zoning law.

- E. Renewal of Permit. The Planning Board, as a condition of approval, may require that special use permits be renewed periodically. When the Planning Board has established such a condition of approval, at least ninety (90) days prior to the expiration of a special use permit, the applicant shall apply to the Building Inspector for renewal of the special use permit. The Building Inspector shall inspect premises and provide the Planning Board with a written evaluation of whether the terms of the conditions specified in the special use permit have been met. The Planning Board shall then determine if the special use permit should be renewed, modified, or revoked.

- F. Existing violation. No special use permit shall be issued for a property in violation of this Zoning Law unless the granting of a special use permit and Site Plan approval will result in the correction of the violation.

- G. Expansion of special use. The expansion of any special use shall require amendment and approval of the special use permit by the Planning Board in accordance with the procedures set forth in this Zoning Law. For purposes of this section, expansion shall be interpreted to mean an increase in the floor or lot area allocated to the special use, an increase in development coverage, or an increase in the intensity of the use, e.g., an increase in traffic or need for on-site parking.

§ 161-80. Standards applicable to all special uses.

(1) General Criteria

- (a) The location and size of the use, the nature and intensity of the operations involved, the size of the site in relation to the use and the location of the site shall be in harmony with the orderly development of the district and shall be compatible with the neighborhood in which it is located and with the small town character in the district.
- (b) The proposed use shall safeguard the values of surrounding properties from noise, glare, unsightliness, or other objectionable features and will not have an adverse impact on adjacent properties.
- (c) The proposed use shall protect natural environmental features, will not negatively impact traffic, and will have no greater overall impact on the site and its surroundings than would full development of uses of the property permitted by right, considering environmental, social, and economic impacts of traffic, noise, dust, odors, release of harmful substances, solid waste disposal, glare, or any other nuisances.
- (d) The location, nature and height of buildings, walls and fences, and the nature and intensity of intended operations shall not discourage the appropriate development and use of adjacent land and buildings nor impair the value thereof;

- (e) The landscaping of the site shall be in character with that prevailing in the neighborhood;
- (f) The character and appearance of the proposed use, building, structures, and signs shall be in harmony with the character and appearance of the surrounding neighborhood.

(2) Specific Criteria

- (a) The lot shall be of sufficient size, appropriate and adequate for the proposed use and the reasonably anticipated operation and expansion of that use.
- (b) Access entrances and exits shall not have the effect of creating traffic congestion or a potentially unsafe condition. In this regard the Planning Board may consider the estimated traffic to and from the site and the use of the site by customers and/or the public.
- (c) The proposed use shall not alter either the level of service on the road that serves it or significantly alter the essential character of that road.
- (d) All proposed curb cuts and/or driveways shall be approved by the appropriate agency or agencies having jurisdiction.
- (e) There shall be adequate off-street parking and loading facilities sufficiently constructed for the anticipated number of occupants, both employees and patrons or visitors. The layout for the spaces and driveways adequately addresses all known safety issues. Although on-street parking may be allowed, safety must be considered.
- (f) Adequate buffering and screening between the proposed site and adjoining properties shall be provided for in order to adequately protect the characteristics and uses of the adjacent properties and land uses.
- (g) There is an adequate supply of water to the site and adequate provisions have been made for sewage, refuse or other waste. The applicant shall show that any public water and sewer infrastructure to be used by the special use has capacity to support the proposed special use.
- (h) The applicant shall provide for adequate collection and disposal of all drainage and stormwater runoff from the site following DEC stormwater guidance and pursuant to Chapter 142 of the Town of Waterford Code.
- (i) The location, size of the use, nature and intensity of the operations, site layout and its relation to streets and highways giving access to the site shall be such that the proposed use will not be hazardous, inconvenient or detrimental to the neighborhood.
- (j) No emission of vibration, fly ash, dust, smoke, vapors, gases, or other forms of air pollution shall be permitted which can jeopardize human health or animal or plant life or which otherwise contributes to the deterioration of or detracts from adjacent properties.
- (k) The proposed use shall be designed and carried out in a manner that does not adversely affect historic, aesthetic, and natural environmental features on the site and in adjacent areas, including but not limited to steep slopes, wetlands, scenic byways, shoreline and waterfront areas, and historic resources. The proposed use does not adversely impact historic landscapes or structures, especially those in the Northside and Barge Canal Historic Districts.
- (l) All proposed buildings, structures, equipment, and/or material shall be readily accessible for fire, police, and other emergency service protection.

Article XIV Site Plan Review

§ 161-81 Title.

This section shall be known as the "Town of Waterford Site Plan Review Law." The Town of Waterford is hereinafter referred to as the "Town."

§ 161-82 Intent.

- A. Through site plan review, it is the intent of this chapter to promote the health, safety, and general welfare of the Town. A clean, wholesome, attractive environment is declared to be of importance to the health and safety of the inhabitants of the Town, and, in addition, such an environment is deemed essential to the maintenance and continued development of the economy of the Town and the general welfare of its inhabitants.
- B. It is further the intent of this chapter to ensure the optimum overall conservation, protection, preservation, development and use of the natural and man-related resources of the Town by regulating land use activity within the Town through review and approval of site plans.
- C. It is further the intent of this chapter to ensure new land uses in the Town address and are consistent with the Town of Waterford Comprehensive Plan.
- D. It is not the intent of this chapter to prohibit, per se, any land use activity but to allow all land use activities permitted by the Town of Waterford Zoning Law (Chapter 161) and which will meet the standards set forth in this chapter.
- E. Where a proposed site plan contains one or more features which do not comply with the zoning regulations, applications may be made to the Zoning Board of Appeals for an area variance pursuant to Section 267-b of New York State Town law, without the necessity of a decision or determination of the Building Inspector.

§ 161-83 Authorization for Planning Board review of site plans.

The Planning Board is hereby authorized to review and approve, approve with modifications, or disapprove site plans for land uses within the Town, as hereinafter designated, pursuant to and in accordance with the standards and procedures set forth in this chapter.

§ 161-84 Applicability; prevalence of more restrictive provisions.

- A. Applicability or review requirements. All new land use activities within the Town shall require site plan review and approval before being undertaken, except the following:
 - (1) Landscaping or grading which is not intended to be used in connection with land use reviewable under the provisions of this chapter.

- (2) Construction of one- or two-family dwellings and ordinary accessory structures, and related land use activities.
 - (3) Ordinary repair or maintenance or interior alterations to existing structures or uses.
 - (4) Exterior alterations or additions to existing structures which would not increase the square footage of the existing structure by more than 25%. **[Amended 10-7-1997 by L.L. No. 11-1997; 8-4-2009 by L.L. No. 12-2009]**
 - (5) Interior alterations that do not change the nature or use of an existing commercial structure.
 - (6) Any change in use which does not require the issuance of a certificate of occupancy pursuant to the Town and the New York State Uniform Building and Fire Code.
 - (7) Temporary garage and lawn sales that are in operation for no more than fifteen (15) days per year.
- B. Effect on existing uses. This chapter does not apply to uses and structures which are lawfully in existence as of the date this chapter, or for any subsequent amendments to this chapter, becomes effective. Any use which would otherwise be subject to this chapter that has been discontinued for a period of two years or more shall be subject to review pursuant to the terms of this chapter before such use it resumed. Any use or structure shall be considered to be in existence, provided that the same has been substantially commenced as of the effective date of this chapter and fully constructed and completed within one year from the effective date of this chapter.
- C. Relationship of this chapter to other laws and regulations. This chapter in no way affects the provisions or requirements of any other federal, state, or local law or regulations. Where this chapter is in conflict with any other such law or regulation, the more restrictive shall apply.
- D. Any person uncertain of the applicability of this chapter to a given land use shall apply in writing to the Town of Waterford Zoning Board of Appeals for an interpretation of this chapter.

§ 161-85 Definitions.

- A. As used in this chapter, the following terms shall have the meanings indicated:

FAMILY

One or more persons who live together as a single housekeeping unit and maintain a

common household, as distinguished from a group occupying a boardinghouse, lodging house, club, fraternity, or hotel. A "family" may consist of a single person or of two or more persons, whether or not related by blood, marriage, or adoption. A "family" may also include domestic servants and gratuitous guests. A person or persons related to each other by blood, marriage, or adoption (and/or not more than three individuals not so related) living together as a single housekeeping unit.

LAND USE ACTIVITY

Any construction or other activity which changes the use or appearance of land or a structure or the intensity of use of land or a structure. "Land use activity" shall explicitly include, but not be limited to, the following: new structures, expansions to existing structures, new uses, changes in or expansions of existing uses, roads, driveways, and excavations for the purpose of extracting soil or mineral deposits.

ONE-FAMILY DWELLING

A detached building containing a complete self-contained residential unit for permanent habitation by one-family only, containing one or more rooms and facilities for living, including cooking, sleeping and sanitary needs.

SHORELINE

The high-water mark of any lake, pond, river, or permanent stream.

STRUCTURE

Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground. Any object constructed, installed or placed on land to facilitate land use and development or subdivision of land, such as buildings, sheds, signs, tanks and fixtures and additions and alterations thereto.

STRUCTURE, ACCESSORY

A detached subordinate building on a lot, the use of which is customarily incidental to that of the main or principal building such as, but not limited to playhouse, pool house, cabana, and garage. Any structure designed to accommodate an accessory use but detached from the principal structure, such as a freestanding garage for vehicles accessory to the principal use a storage shed, garden house or similar facility.

TWO-FAMILY DWELLING

A detached structure containing two complete, but separate dwelling units, each for habitation by one-family only in a single structure having a common wall roof, wall or ceiling and containing separate rooms and facilities for living, including cooking, sleeping and sanitary needs.

[Amended 9-1-1987 by L.L. No. 3-1987]

- B. Any term used in this chapter which is not defined hereinabove shall carry its customary meaning unless the context otherwise dictates, or such definitions as included in Chapter 161.

§ 161-86 Site plan review required.

Prior to undertaking any new land use activity, except for a one- or two-family dwelling and other uses specifically excepted in § 131-4A of this chapter, a site plan approval by the Planning Board is required. Applicants for site plan approval shall follow the recommended procedures related to the sketch plan conference as hereinafter set forth per this chapter. Applicants must comply with all other procedures and requirements of this chapter.

§ 161-87 Sketch plan; conference.

- A. A sketch plan conference shall be held between the Planning Board and the applicant prior to the preparation and submission of a formal site plan. The intent of such a conference is to enable the applicant to inform the Planning Board of his proposal prior to the preparation of a detailed site plan and for the Planning Board to review the basic site design concept, advise the applicant as to potential problems and concerns and to generally determine the information to be required on the site plan.
- B. In order to accomplish these objectives, the applicant shall provide the following:
- (1) A statement and rough sketch showing the locations and dimensions of principal and accessory structures, parking areas, access signs (with descriptions), existing and proposed vegetation and other planned features; anticipated changes in the existing topography and natural features; and, where applicable, measures and features to comply with zoning, wetland, flood hazard and flood insurance regulations.
 - (2) An area map showing the parcel under consideration for site plan review and all properties, subdivisions, streets, rights-of-way, easements, and other pertinent features within 200 feet of the boundaries of the parcel.
 - (3) A topographic or contour map of adequate scale and detail to show site topography. The Planning Board shall have the discretion to waive the provision of a topographical map in the event that the applicant shows that the contour of the parcel does not impact the project in any manner.
- C. At the sketch plan conference, the Planning Board will review and determine if the proposal is in conformity with the Town of Waterford Zoning Law (Chapter 161), is consistent with the Comprehensive Plan, and identify any issues and concerns. The Planning Board shall also review with the applicant submission requirements to determine what specific

information is to be presented with the site plan application and what general time frames are applicable for SEQRA and the site plan review process.

§ 161-88 Application for site plan approval; checklist.

- A. Subsequent to the sketch plan conference, an application for site plan approval shall be made, in writing, to the Chairman of the Planning Board and shall be accompanied by information contained on the following checklist as determined necessary by the Planning Board at said sketch plan conference. Seven (7) copies of the application shall be submitted. All applications for site plan review must be submitted to the Planning Board at least ten (10) days prior to the Planning Board's regular meeting.
- B. Site plan checklist. The following shall be required with the application for site plan approval.
- (1) The title of the drawing, including the names and addresses of the applicant and person responsible for preparation of such drawing.
 - (2) The North arrow, scale, and date.
 - (3) The boundaries of the property, plotted to scale, and identification of the zoning district within which the proposed project is located. It shall further identify if the project is located within the Waterfront Overlay and LWRP Boundary.
 - (4) Location of existing buildings and structures including, but not limited to utilities such as sewer and water pipes or connections.
 - (5) A grading and drainage plan, showing existing and proposed contours, rock outcrops, depth to bedrock, soil characteristics and watercourses. If a Stormwater Pollution Prevention Plan (SWPPP) is required pursuant to the 131-8.1, other requirements of the Town of Waterford Code and/or the New York State Department of Environmental Conservation, then the site plan application shall include such plan.
 - (6) The location, design, type of construction, proposed use, and exterior dimensions of all buildings.
 - (7) The location, design, and type of construction of all parking and truck-loading areas, showing access, ingress, and egress.
 - (8) Provisions for pedestrian access, including connection to existing sidewalks or trails.
 - (9) The location of outdoor storage, and structures such as solid waste disposal, hazardous material storage, bulk storage, or other storage needed on site, if any.

- (10) The location, design, and construction materials of all existing or proposed site improvements, including drains, culverts, retaining walls and fences.
- (11) A description of the method of sewage disposal and location, design, and construction materials of such facilities.
- (12) A description of the method of securing public water and location, design, and construction materials of such facilities.
- (13) The location of fire and other emergency zones, including the location of fire hydrants.
- (14) The location, design, and construction materials of all energy distribution facilities, including electrical, gas and solar or other renewable energy.
- (15) The location, size and design and type of construction of all proposed signs.
- (16) The location and proposed development and management of all buffer areas, including and existing vegetative cover.
- (17) The location and design of existing and proposed outdoor lighting facilities. The Planning Board may require a lighting plan to be submitted.
- (18) An identification of the location and amount of building area proposed for retail sales or similar commercial activity.
- (19) A general landscaping plan and planting schedule.
- (20) An estimated project construction schedule.
- (21) Identification of any and a record of application for and status of all necessary permits from other governmental bodies required for the project's full execution and completion.
- (22) An identification of any permit from other governmental bodies required for the project's execution.
- (22) Identification of ownership of all adjacent lands as shown on the latest tax records. The Planning Board may also require identification of other pertinent features within 500' of the applicant's property such as but not limited to residences, commercial structures, sensitive environmental features, or utilities.
- (23) State Environmental Quality Review (SEQR) Environmental Assessment Form (EAF) Part I.

- (24) A description of the existing conditions and uses of the shoreline and waterfront, if the parcel is located along the Hudson or Mohawk Rivers, or any of the canals in Waterford, and how the proposed project will maintain or enhance those resources.
- (25) Identification of whether the parcel is within any National or State Register Historic District, contains any historic structures listed or eligible for listing on the National or State Register of Historic Places, and how the proposed project will maintain or enhance those resources.
- (26) If, upon a review of the materials submitted by the applicant, the Planning Board determines that a proposed project could have traffic or visual impacts, the Planning Board may require the applicant to prepare and submit, traffic impact analysis and a visual impact assessment. Costs for all reports, assessments, or plans required by the Planning Board shall be borne by the applicant.
 - (a) Traffic Report. Traffic Reports shall be prepared by a registered Professional Engineer or other qualified professional and include the following for the study area:
 - (1) Internal traffic flow analysis.
 - (2) Existing and projected average daily traffic and peak hour levels.
 - (3) Existing and projected intersection levels of service (LOS).
 - (4) Directional vehicular flows resulting from the proposed project.
 - (5) Proposed methods to mitigate the estimated traffic impact.
 - (6) Identification of any pedestrian crossing issues.
 - (7) The methodology and sources used to derive existing data and estimations.
 - (b) Visual Impact Report. The Visual Impact Assessment shall be prepared by a registered Landscape Architect or other qualified professional and shall include:
 - (1) A report that visually illustrates and evaluates the relationship of proposed new structures or alterations to nearby natural landscapes and to pre-existing structures in terms of visual character and intensity/scale of use (e.g., scale, materials, color, door and window size and locations, setbacks, roof and cornice lines, and other major design elements).

- (2) An analysis of the visual impacts on neighboring properties from the proposed development and alterations, and of the location and configuration of proposed structures, parking areas, open space, and gradient changes.
 - (3) The Planning Board may require use of photo-simulations or balloon tests as part of the visual impact assessment.
- (27) Any other elements integral to the proposed development, as may be considered necessary in the particular case by the Planning Board.

§ 161-88.1 Stormwater pollution prevention plan.
[Added 4-5-2016 by L.L. No. 3-2016]

A stormwater pollution prevention plan consistent with the requirements of Chapter 142, Stormwater Management and Erosion and Sediment Control, and Chapter 161, Zoning, Article XI, shall be required for site plan approval. The SWPPP shall meet the performance and design criteria and standards in Chapter 161, Zoning, Article XI. The approved site plan shall be consistent with the provisions of this Chapter 142, Stormwater Management and Erosion and Sediment Control, and Chapter 161, Zoning, Article XI.

§ 161-89 Fees and costs.

- A. An application for site plan review shall be accompanied by a fee as established by the Town Board.
- B. Costs incurred by the Planning Board for consultation fees or other extraordinary expenses in connection with the review of a proposed site plan shall be charged to the applicant. The Planning Board may also incur other expenses in order to properly review documents or conduct special studies in connection with the proposed application including but not limited to the reasonable costs incurred for private consultation fees, fees for technical and engineering services, legal fees, or other expenses in connection with the review of a special use permit application. All fees shall be established by the Planning Board and charged to the applicant. The Planning Board shall make a reasonable estimate of the amount of expenses that it expects to incur during the course of each application for a special use permit. The amount so determined shall be deposited by the applicant in an escrow account established with the Town Clerk prior to the Planning Board commencing any review of the application. If the amount that is deposited is exhausted or diminished to the point that the Planning Board determines that the remaining amount will not be sufficient to complete the review of the application, then the Planning Board shall notify the applicant of the additional amount that must be deposited with the Town Clerk. If the applicant fails to replenish the escrow account or there are unpaid amounts for which the applicant is responsible, the Planning Board, in its discretion, may cease review of the application until such amounts are paid or deny the application. In no event, however, shall any special use

permit be approved until such sums have been paid in full.

§ 161-90 General considerations for review.

The Planning Board's review of the site plan shall include, as appropriate, but is not limited to, the following general considerations:

- A. The location, arrangement, size, design, and general site compatibility of buildings, lighting, and signs.
- B. The adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers, and traffic controls.
- C. The location, arrangement, appearance, and sufficiency of off-street parking and loading.
- D. The adequacy and arrangement of pedestrian traffic access and circulation, walkway structures, control of intersections with vehicular traffic and overall pedestrian convenience.
- E. The adequacy of stormwater and drainage facilities.
- F. The adequacy of water supply and sewage disposal facilities and adequacy of utilities.
- G. The adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining lands including the maximum retention of existing vegetation and adequacy of landscaping for screening.
- H. The adequacy of fire lanes and other emergency zones and the provision of fire hydrants.
- I. Special attention to the adequacy and impact of structures, roadways, and landscaping in areas with susceptibility to ponding, flooding and/or erosion.
- J. Overall impact on the neighborhood, including compatibility of design considerations.
- K. Adequacy of the project to protect significant natural, ecological, cultural, and historical features on and near the site including but not limited to wetlands, streams, floodplains, critical wildlife and fish habitats, waterfronts and shorelines, and historic buildings and landscapes.
- L. Compatibility of the site plan with its surroundings and in keeping with the character of the neighborhood, district, and Town. The Planning Board will evaluate:
 - (1) The relationship of buildings and site to adjoining areas. Site plans involving nonresidential uses proposed adjacent to a residential district or residential uses shall be reviewed with regard to minimizing the impact of the commercial development on

such district or use. Individual buildings shall relate to each other, and to other structures in the surrounding area, in lot placement, scale, height, build-to lines, and connections to harmonize visually and physically with the character of the area.

- (2) The maintenance of existing architectural elements with adaptive reuse projects. When commercial projects involve the renovation/reuse of an existing building, the traditional character and architectural elements shall be maintained as may be required by the Planning Board.
 - (3) The visual impacts of new commercial structures as viewed from public roads, public property, or publicly access areas such as parks.
- M. Compatibility of the site plan with any pertinent development standards and commercial design requirements pursuant to Chapter 161.
 - N. Adequacy of outdoor lighting so that glare and light pollution that may be associated with the development is minimized or eliminated.
 - O. Adequacy of measures planned to mitigate noise that may be generated from the project.
 - P. Consistency with the policies of the Local Waterfront Revitalization Plan and Chapter 151 of the Town of Waterford code.

§ 161-91 Public hearing; notice.

The Planning Board may conduct a public hearing on the site plan if considered desirable by a majority of its members. Such hearing shall be held within ~~62~~⁴⁵ days of the receipt of an application for site plan review and shall be advertised in the Town's official newspaper or, if there is none, in a newspaper of general circulation in the Town at least five days before the public hearing. The Planning Board shall mail notice of the hearing to the applicant at least ten days before the hearing. The Planning Board shall also give notice to an adjacent municipality at least 10 days prior to any such hearing held by the Planning Board related to site plan review and approval on property that is within five hundred feet of an adjacent municipality as per GMU 239-NN.

§ 161-91.1 Referral to Other Agencies and Boards.

- A. Coordinated Review. The Planning Board may refer, or may be required by law to refer, the site plan for review and comment to other local and County agencies or their designated consultants, and/or to representatives of Federal and State agencies having jurisdiction over the site plan or some part of the proposed project.
- B. Required Referral. Prior to taking the final action on the site plan, and at least ten (10) days prior to the Public Hearing, and where applicable, the Planning Board shall refer the plan to

the Saratoga County Planning Board for their review and recommendation pursuant to Section 239-m of the New York State General Municipal Law.

§ 161-91.2 SEQRA Compliance.

Except for applications which are classified as Type II actions, no other application shall be approved without full compliance with State Environmental Quality Review Act (SEQRA) (6 NYCRR Part 617) and no other application for site plan review shall be considered complete for initiation of the site plan time frames until either a negative declaration has been issued or a draft environmental impact statement has been accepted.

§ 161-92 Decision of Planning Board.

Within 62 days of receipt of the application for site plan approval or, if a public hearing is held, within 62 days of the public hearing, the Planning Board shall render a decision. In its decision the Planning Board may approve, approve with modifications, or disapprove the site plan. The time period in which the Planning Board must render its decision can be extended by mutual consent of the applicant and the Planning Board.

- A. Approval. Upon approval of the site plan and payment by the applicant of all fees and reimbursable costs due the Town, the Planning Board shall endorse its approval on a copy of the site plan and shall immediately file it within five business days and a written statement of approval with the Town Clerk. A copy of the written statement of approval shall be mailed to the applicant by certified mail, return receipt requested.
- B. Approval with modifications. The Planning Board may conditionally approve the final site plan. A copy of the written statement containing the modifications required by the conditional approval will be mailed to the applicant by certified mail, return receipt requested. After adequate demonstration to the Planning Board that all conditions have been met and payment by the applicant of all fees and reimbursable costs due the Town, the Planning Board shall endorse its approval on a copy of the modified site plan and shall immediately file it and a written statement of approval within five business days with the Town Clerk. A copy of the written statement of approval shall be mailed to the applicant by certified mail, return receipt requested.
- C. Disapproval. Upon disapproval of the site plan, the decision of the Planning Board shall immediately be filed within five business days with the Town Clerk and a copy thereof mailed to the applicant by certified mail, return receipt requested, along with the Planning Board's reasons for disapproval.

§ 161-93 Appeals.

Any person aggrieved by any decision of the Planning Board or any officer, department, board, or bureau of the Town may apply to the Supreme Court for a review by a proceeding under Article 78 of the Civil Practice Law and Rules. Such proceedings shall be instituted within 30

days after the filing of a decision in the office of the Town Clerk.

§ 161-94 Enforcement officer.

The Town Board may appoint an enforcement officer to carry out the duties assigned by this chapter or by any additional regulations adopted pursuant to § **131-15** hereof. If appointed, the enforcement officer shall be responsible for the overall inspection of site improvements, including coordination with the Planning Board and other officials and agencies, as appropriate.

§ 161-94.1 Guarantee of Site Improvements.

- A. No certificate of occupancy shall be issued until all required infrastructure and improvements shown on the site plan are installed or a sufficient performance guarantee has been posted to cover the full cost of all required infrastructures and improvements not yet completed. Such performance guarantee shall be posted in accordance with the requirements and procedures specified in Sections 274-a (7) and 277(9) of the New York State Town. The amount and sufficiency of such performance guarantee shall be determined by the Planning Board after consultation with the Town Attorney, the Town Engineer, other local officials, or the Planning Board's designated private consultants.
- B. Extension of Time. The construction or installation of any improvements or facilities, other than roads, for which a guarantee has been made by the applicant in a form acceptable pursuant to this law, shall be completed within one (1) year from the date of approval of the site plan. All construction of new roads and associated improvements including, but not limited to, curbs, curb cuts, drainage, and paving shall be completed within two (2) years from the date of approval of the site plan. The applicant may request that the Planning Board grant an extension of time to complete such improvements, provided the applicant can show reasonable cause for inability to perform said improvements within the required time. The extension shall not exceed six (6) months, at the end of which time the town may use as much of the proceeds of the posted performance guarantee to construct the improvements as necessary. The Planning Board may also grant the applicant an extension of time whenever construction or improvements are not performed in accordance with applicable standards and specifications.
- C. Schedule of Improvements. When a performance guarantee is issued, the town and applicant shall enter into a written agreement itemizing the schedule of improvements in sequence with the cost opposite each phase of construction or installation, provided that each cost as listed may be repaid to the applicant upon completion and approval after inspection of such improvement or installation. However, ten percent (10%) of the check deposit or performance bond shall not be repaid to the applicant until one (1) year following the completion and inspection by the town of all construction and installation covered by the performance guarantee.
- D. Inspections. The Planning Board may require an inspection and an inspection fee escrow to be established. When required, inspections during installation of improvements shall be made by the engineer retained by the Planning Board, and/or Building Inspector to ensure conformity with the approved plans and specifications as contained in the contract and this law. The applicant shall notify the engineer retained by the Planning Board and Building Inspector when each phase of improvements is ready for inspection. Upon acceptable

inspection and final completion of installation and improvement, the Planning Board shall issue a letter to the applicant or his/her representative that provides sufficient evidence for the release by the Town of the portion of the performance guarantee as designated in the contract to cover the cost of such completed work.

§ 161-95 Additional rules and regulations.

The Planning Board may, after a public hearing, adopt such further rules and regulations as it deems reasonably necessary to carry out the provisions of this chapter.

§ 161-96 Integration of procedures.

Whenever the circumstances of proposed development require compliance with this chapter and with any other local law, ordinance or requirement of the Town, the Planning Board shall attempt to integrate, as appropriate, site plan review as required by this chapter with the procedural and submission requirements for such other compliance.

§ 161-97 Penalties for offenses.

Any person, corporation, partnership, association or other legal entity who shall violate any of the provisions of this chapter or any conditions imposed by a permit pursuant hereto shall be guilty of an offense and subject to a fine of not more than \$250 or to a penalty of \$250 to be recovered by the Town in a civil action. Every such person or entity shall be deemed guilty of a separate offense for each week that such violation, disobedience, omission, neglect, or refusal shall continue.